

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

Doyet A. Early, III, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

NOEL GRAY,

APPELLANT

APPELLATE CASE NO. 2012-213607

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorneys for Respondent

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STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF GENERAL SESSIONS

2004-GS-02-1333/1334

NOEL E. GRAY, JR #307590

Petitioner

V.

THE STATE OF SOUTH CAROLINA

Respondent.

MOTION FOR NEW TRIAL PURSUANT

TO S.C. R. Crim. P. RULE 29(b)

S.C. CODE ANN § 17-23-110

NEWLY / AFTER-DISCOVERED

EVIDENCE , , ,

- WITH MATERIAL FACTS -

COMES NOW INTO COURT Pro-Se Petitioner, pursuant to S.C. R. Crim. P. -
Rule 29(b); S.C. Code Ann. § 17-23-110 MOTION'S this Honorable Court to
grant petitioner a New Trial based on After-Discovered Evidence.

The petitioner in this case is aware that he has no skill in the science of
law Powell v. Alabama, 287 U.S. 45, 68-69 (1932); Gideon v. Wainwright, 372 U.S.
335, 83 S.Ct. 792 (1963). And by his own means will clearly show by and through
Material Facts he is entitled to a New Trial based on After-Discovered Evidence.

Also he will prove beyond a reasonable doubt he is unlawfully incarcerated
and convicted Unconstitutionally by the means of Ineffective Assistance of Trial
Counsel; State Interference; Prosecutorial Misconduct and using Unconstitutional
prosecutorial Tactics. And Abuse of Discretion and Law by Trial Court.

And the Sixth Amendment right to notice, confrontation, and Compulsory
process guarantee that a criminal charge may be answered through the calling
and interrogation of favorable witnesses, the Cross-Examination of adverse
witness(es), and the orderly introduction of evidence, these basic rights are
applicable to the state through the due process clause of the Fourteenth
Amendment essentially Constitutionalizes the right to present a defense
in any adversary Criminal Trial. Faretta v. California, 442 U.S. 806, 95-
S.Ct. 2525 (1975).

The petitioner also contends that the trial Counsel denied him the
Constitutional right to raise the Vendetta issue, thereby violating his
right to present a defense and entitling him a new-Trial.

Copies - Judge Early
Solicitor
P.D.
Mr. Gray

FILED

September 24 2002

Richard

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James S. Gustafson (CW)

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the After-Discovered Evidence of Material Facts are not previously heard and are Constitutionally Valid to Vacate Sentence and/or Conviction and has been filed December 9, 2011 in the Court of Common Pleas, but due to petitioners inexperience in Criminal law proceedings and procedures he mistakenly placed the After-Discovered Evidence claims in the Wrong Court.

And the issues were filed under the (1) one year since the discovery pursuant to S.C. Code Ann. § 17-25-45(c), Coats v. State, 575 S.E.2d 577 - (S.C. 2003).

September 7, 2011 received a printout from a friend regarding petitioners trial Counsel from Justia, Com because he was researching her trial Court experience and she refused to supply her client with the documents he requested, because of his indigent status his trial Counsel did not want to reveal her inexperience in connection to her open trial experience.

October 7, 2011 Trial Counsel sent an official letter head stating she would not send him complete discovery in clear violation of Brady Rule 5 disclosure.

October 12, 2011 received a Rule 5 discovery package from trial Counsel; containing two (2) plea Agreements; Letters regarding Violated IADA Federal Contract; that Counsel refused to disclose to her client (emphasis added)

October 13, 2011 Trial Counsel's boss Ms. Wallis Alves Chief Public Defender send petitioner a copy of Trial Counsel's Job Resume that clearly shows Trial Counsel was not qualified to hold an open Jury regarding a serious offense in which cost her client his life pursuant to S.C. Code Ann. § 17-25-45(a), Recidivist Statute.

October 31, 2011 petitioner came across a Jackie Blackwood who knew the States Witness Milce Williams 20 years of his life who wrote a Statement to the effect of his knowledge of him.

Pursuant to Davis v. State, 381 S.C. 601, 675 S.E.2d 416 (2010) Failure to communicate a plea offer to her client constitutes deficient performance see also Tilley v. State 334 S.C. 24, 511 S.E.2d 689 (S.C. 1999),

Missouri v. Frye, No. 10-444 U.S. S.Ct. (2012) The Sixth Amendment applicable to the States by the terms of the Fourteenth Amendment provides that the accused shall have assistance of Counsel in all Criminal proceedings. The right to Counsel is the right to effective assistance of Counsel see Strickland v. Washington, 466 U.S. 668, 686 (1984). This case arises in the conflict and context of claimed Ineffective Assistance that led to the lapse of a prosecutorial offer of a Plea Bargain, a proposal that offered terms more lenient than the terms of "Life without Parole" the petitioner was prejudiced due to trial Counsel not moving in the best behalf of her client to prevent him from being sentenced to Life without parole pursuant to S.C. Code Ann. § 17-25-45(9) Recidivist Statute.

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Pursuant to the petitioners Direct Appeal, Appellant Counsel Eleanor Duffy, clearly filed an Anders Brief September 21, 2006 stating Trial Judge erred by Sentencing appellant to Life without parole where his prior conviction from Georgia for aggravated Child Molestation was not for an offense that would be classified as a most Serious offense in South Carolina. See Anders Brief. Petitioner filed a Pro-Se Brief November 12, 2006 but due to Hybrid Representation his Pro-Se Brief was not heard because of a procedural rule, a clients hands are tied because of South Carolina Law (firm standing) against hybrid representation when counsel has been appointed Foster v. State, 379 S.E. 2d 907 (S.C. 1989) (Litigant filed Pro-se seeking relief of Counsel or pursuant to procedures established by Anders v. California, 386 U.S. 778, 87 S.Ct. 1396 (1967); State v. Stuckey, 333 S.C. - 56, 508 S.E. 2d 564 (1998) ("No right under the South Carolina Constitution to hybrid representation State v. Sanders, 269 S.C. 215, 237 S.E. 2d 53 (1997).

Any substantive document filed Pro-se by a person represented by Counsel are not accepted unless submitted by Counsel also see Coleman v. Thomas, 501 U.S. 772, 750, 111 S.Ct. 2546 (1991) (Fundamental Miscarriage of Justice resulting from failure to comply with applicable rule). See Pro-Se Brief Also Trial Counsel was ineffective because she failed to preserve issues for Appellate review Read State v. Rice (Ct. App. 2007)

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A party making a motion for a New Trial or from relief from Judgment based on Newly / After discovered Evidence must show that the evidence (1) will probably change the result if a new trial is granted; (2) Has been discovered since the trial; (3) Could not have been discovered before the trial; (4) Is material facts to the issue; (5) Is not merely cumulative or impeaching Lanier v. Lanier, 364 S.C. 211, 612 S.E.2d 456 (S.C. Ct. App. 2005),

1. Trial Counsel failed to record any statements (in writing or by audio or video) from any conversation with any neighbor's or any one who knew Mike Williams a Critical States Witness so as to hold him to standard of consistency at trial "A New Reliable Eye witness Jackie Blackwood is one of the witnesses who could unequivocally show that Mike Williams had a motive to lie, and protect Linda Brown, more importantly, trial Counsel could have disclosed the hidden Vendetta against the petitioner to clear himself from the alleged foul conduct against ^{Minor}

2. Trial Counsel failed to interview any known acquaintances of Linda Brown and Mike Williams to authenticate or disprove what they told the police and Jury.

3. Trial Counsel failed to interview Mike Williams to at least disclose any bad blood between Linda Brown and petitioner see State v. P. Schmidt, No. 2251 (S.C. 1986) Evidence concerning hard feelings between child's family and petitioner is relevant "Reverse and Remand" for new trial.

4. Trial Counsel failed to conduct any interviews with any other occupants that lived within Mike Williams Residence before, during, and after the alleged incidents, to gather salient information concerning the alleged victim and Mike Williams, And his true relationship with her and the nature of that relationship in particular.

5. Trial Counsel failed to conduct any meaningful investigations of the total circumstances surrounding the living situation at Mike Williams

residence and any "eye witnesses" to sort out facts, omissions, and unexplained inconsistencies and inaccuracies in their stories to the police and their trial testimonies included, but not limited to:

- (1) Their whereabouts at the time of the alleged assaults or conduct;
- (2) Mike Williams Relationship with Linda Brown;
- (3) Mike Williams Relationship with ^{Minor} ;
- (4) His real purpose of being a Clown that involves children
"Any investigations or complaints that may have been alleged against him";
- (5) The mysterious caller that He wished to remain anonymous who manipulated false allegations that made the alleged victim to fraudulently secure a conviction to charge petitioner.

This evidence that is After-Discovered gives raise to a denial of a fundamentally fair trial, where the prosecution established that Linda Brown was sole conspirator in the alleged sexual assaults against her own child, where trial Counsel allowed the State to Shift the burden of proof towards her client.

Also this New Evidence shines New light on/about the evidence gathered by the police, was Orchestrated by Mike Williams to remove petitioner from his involvement with Linda Brown.

Pursuant to S.C. Code Ann. § 17-22-45 (c) requires that the petitioner files under this Chapter within one (1) year after the date of actual discovery, of the facts

The petitioner contends that this New Evidence has not ever been presented nor heard. Had this evidence been presented at trial among other things by the witness(es) it could have been weighed by the jury in deliberating upon it's verdict. Importantly, the jury would have had to decide the important issues of believability and credibility of the States witness(es).

also, this new evidence would have a grave impact upon reasonable jurors. State v. McGuire, 272 S.C. 547, 550, 253 S.E.2d 103, 104 (1979). Reversing a Conviction and Remanding for a New Trial where, among other things, the trial Court erred by refusing to allow the defendant to impeach the credibility of a Critical witness to the States case,

State v. Mitchell, 286 S.C. 572, 573, 336 S.E.2d 150, 151 (1985); The materiality and prejudicial character of the error must be determined from its relationship to the entire case.

- PLEA AGREEMENTS -

Deficient performance, turning to the facts of the instant Motion for new trial, petitioner finds that trial Counsel's failure to convey the States two (2) initial plea agreements to petitioner constituted deficient performance, the Petitioner received a Rule 5 Discovery package from trial Counsel dated October 12, 2011 amongst disclosure was two (2) plea Agreements trial Counsel failed to communicate.

The petitioner proceeded to trial on January 31 - February 2, 2005 without any counseling as to any strategy, yet alone to discuss any of the facts that may effect the outcome of the proceeding. Due to Trial Counsel's Unprofessional performance her Client received Life without Parole pursuant to S.C. Code Ann. § 17-25-45(a) Recidivist Statute.

- PREJUDICE -

The prejudicial effect is clear. Trial Counsel's failure to communicate a plea offer, whatever the terms, was inherently prejudicial because the deficient conduct prevented the petitioner from making an informed decision see e.g., State v. Simmons, 65 N.C. App. 294, 309 S.E.2d 493, 498 (N.C. Ct. App. 1983), (concluding, defendant was clearly prejudiced by his attorney's failure to inform him of the [Plea Bargain] offer; also see Harris v. State, 875 S.W.2d 662-655 (Tenn. 1994), ("there is no doubt that the prejudice suffered by the defendant was the direct result of failure on the part of Defense Counsel to discuss the "Plea offer" with his client and his failure to respond timely to the States offer.').

State v. James, 48 Wn. App. 353, 739 P.2d 1161, 1167 (Wash. Ct. App. 1987); (If we were presented with a finding, supported by substantial evidence, that in fact [counsel] failed to convey the plea negotiation to his client, we would have no hesitation in concluding the defendant was denied effective Assistance of Counsel on this error alone"). No Pre-Trial Consultation accorded between Counsel and petitioner prior to Trial. Trial Counsel had no reasonable basis for failing to inform him of such offer. Had this offer been known, the petitioner may have accepted the plea offered but for the inadequate notice the petitioner proceeded to trial see Strickland v. Washington, 466 U.S. 668 (1984) (A) defendant has the right to effective assistance of Counsel also see Judge v. State 321 S.C. 554, 471 S.E.2d 146 (1996); overruled on other grounds by Jackson v. State, 342 S.C. 95, 535, S.E.2d 926 (2000); Boria v. Keane, - 83 F. 3d 48 (2nd Cir. 1996); U.S. v. Cronie, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed. 2d 657 (1984).

Pursuant to Cronie analysis, the Court based it's inference on the circumstances surrounding the representation of Harris P. Cronie, in particular the Court considered:

- (1) The time afforded to investigate and prepare;
- (2) Experience of Trial Counsel;
- (3) Gravity of the Charge;
- (4) The complexity of possible defense; and;
- (5) The accessibility of witness(es) to counsel see U.S. v. Cronie, 466 U.S. 648-653 (1984)

Petitioner was incarcerated at the Lexington Federal Medical Center located in Lexington, Kentucky, see Attached Exhibits. Also Please take Judicial notice to the Exhibits they are in order as they occurred by dates.

September 7, 2011; October 12, 2011; October 13, 2011; October 31, 2011; November 22, 2011 petitioner received the following Critical documents,

- Document #1) Justia.com dated September 7, 2011;
 Document #2) Brady Rule 5 Discovery package dated October 12, 2011 with

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the documents "Official Letter head telling petitioner she will not provided him with the documents he requested dated October 7, 2011;

Document #3) Plea Agreement #1 dated October 7, 2004 that expired October 18, 2004 for 40 years total for Three Charges;

Document #4) Plea Agreement #2 dated January 11, 2005 that expired January 21, 2005 for a Lesser Included offense for Thirty nine years total for Three Charges." That was never charged to the jury for Lesser Included Instructions Keeble v. U.S. 412 U.S. 205 (1973) Rule 31(c) also see e.g. - Sansone v. U.S. 380 U.S. 343, 344 (1965); Berra v. U.S. 351 U.S. 131, 134 (1956); Stevenson v. U.S. 162 U.S. 313 (1896).

- INSTRUCTIONS ON LESSER INCLUDED OFFENSES -

For a defendant to be entitled to a jury instruction on a lesser-included offense, there must be some evidence in the record that would tend to show that the defendant is guilty of the lesser rather than greater offense State v. Fields, 356 S.C. 517, 589 S.E.2d 292 (Ct. App. 2003); State v. Funchess, 267 S.C. 427, - 229 S.E.2d 331 (1976). The possibility that the jury might believe some of the State's case and not the rest is an insufficient argument for a lesser-included offense instruction. Id. However, the trial court should refuse a charge on a lesser-included offense where there is no evidence that the defendant committed the lesser rather than the greater offense State v. Smith, 315 S.C. - 547, 549, 446 S.E.2d 411, 413 (1994); Tisdale v State, 378 S.C. 122, 662 S.E.2d - 410 (2008) Trial Counsel ineffective for failure to request a jury charge on accident or manslaughter where there was evidence that defendant and victim struggled over gun warranted instruction for involuntary manslaughter as lesser-included offense of murder, despite evidence that victim was shot twice in back of head. Also, a defendant must be advised of any lesser-included offenses which the jury could be/would be instructed on if he went to trial Kerrigan v. State, 304 S.C. 561, 406 S.E.2d 160 (1991).

Also in Boria v. Keane, 83 F. 3d 48 (2nd Cir. 1996) Trial Counsel ineffective for failure to advise defendant of improbability of acquittal and benefit of plea bargain when defendant faced potential sentence twice as long as plea agreement.

Evidence clearly shows that the State and Trial Counsel had evidence of an lesser-included offense instruction that was never brought to the defendants attention nor the jury. See Plea Agreement dated January 11, 2005 for Lewd act.

Document #5) Trial Counsel's Employment Resume' from Ms. Wallis Alves Chief Public Defender dated October 13, 2011;

Document #6) Statement from Jackie Blackwood dated October 31, 2011;

Document #7) Official letter Head from The Aiken County Sheriff's Department informing the defendant that Linda Brown was never charged nor indicted dated November 22, 2011.

Facts as follows:

- 1) Trial Counsel specializes in "Product Liability";
- 2) Trial Counsel violated her own clients Brady Rule 5 disclosure;
- 3) Trial Counsel failed to protect her client from a life without parole Sentence;
- 4) Trial Counsel was inexperienced to bring a serious offense to bar on her own; Trial Counsel graduated the University of South Carolina in (1997); therefore, Trial Counsel had only 18 years of experience when receiving appellants case; ("it is not clear how many Jury Trials she has brought to bar regarding C.S.C. in chief").
- (5) It is evident that her role in the legal practice was restricted to a "Legal Assistant".
- (6) Trial Counsel only saw defendant (1) one time since February 17, 2004 to February 2, 2005. on October 13, 2004. Therefore there is no possible way that trial Counsel could build a working relationship and a clear stance on what transpired on the allegations towards her client. See P.C.R. Transcripts Page 13 at 16-17. Therefore, trial Counsel did not have ample time to reasonably research and investigate the allegations of C.S.C., had she, she would have uncovered a "Vendetta" and "Motive" for the States witness(es);
- (7) Petitioners Sixth Amendment right to effective Assistance of Counsel was violated, when Trial Counsel lied to the PCR Court Judge and failed to hold the State to it's Federal IADA Contract. Trial Counsel became a friend of the State by filing an Unconstitutional "Joint Motion" on behalf of the State in which resulted in the State moving forward in it's case

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INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL PURSUANT TO CRONIC.

The very premise of our adversary system of Criminal justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free see Herring v. New York, 422 U.S. 853, 862, 95 S.Ct. 2250, 2555, 45 L.Ed. 2d 593 - (1975).

The Sixth Amendment guarantees that every Criminal defendant shall receive "Assistance of Counsel" in establishing his defense. U.S. Const. amend. VI. On May 14, 1984, the United States Supreme Court handed down two opinions holding that the Sixth Amendment requires that the Criminal defendant receive effective assistance of Counsel United States v. Cronic, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed. 2d 657 (1984); Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984).

In Cronic, the Court characterized the protection that the Sixth Amendment affords the defendant;

The right to the effective assistance of Counsel is thus the right of the accused to require the prosecution's case to survive the crucible of meaningful adversarial testing. When a true adversarial criminal trial has been conducted -- even if the defense counsel may have made demonstrable errors -- the kind of testing envisioned by the Sixth Amendment has occurred. But if the process loses its character as a confrontation between adversaries, the Constitutional guarantee is violated. As Judge Wyzanski has written, while a Criminal trial is not a game in which the participants are expected to enter the ring with near match in skills, neither is it a sacrifice of unarmed prisoners to gladiators.

466 U.S. at 656-657, 104 S.Ct. at 2045-2046 (Citations Omitted).

In Strickland, the Court set forth a two-prong test for evaluating the effectiveness of the Criminal defendant's attorney. To receive a new trial on the grounds of ineffectiveness of Counsel, the defendant must prove (1) that counsel's representation was deficient, and (2) that there

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is a reasonable probability that counsel's deficient performance / Conduct prejudiced the outcome of Petitioner's trial see Strickland, 466 U.S. at 644, 104 S. Ct. at 2068.

The Court stated in Cronic that there are three circumstances in which the defendant's representation is so inadequate that the second element of the Strickland test, the prejudice element, can be presumed. Cronic, 466 U.S. at 658-659, 104 S. Ct. at 2039.

The first scenario in which prejudice is presumed is where there is a "complete denial of Counsel," which occurs when a trial is rendered unfair because the defendant is denied assistance of counsel during a "critical stage" of his trial. *Id.*

In the second scenario, prejudice is presumed if "counsel entirely fails to subject the prosecution's case to a meaningful adversarial testing." when there has been no meaningful adversarial testing, then "the adversary process itself [is] presumptively unreliable." *Id.* In Bell v. Cone, the U.S. Supreme Court explained further that "the attorney's failure [to test the prosecutor's case] must be complete" for this standard to be met. 535 U.S. 685, 697, 122 S.Ct. 1843, 1851, 152 L.Ed.2d 914 (2002).

Third, prejudice is presumed when circumstances dictate that no attorney could render effective assistance of counsel, Cronic, 466 U.S. at 659-662, 104 S. Ct. at 2047-2048[2]

- PERJURY AS FOLLOWS -

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State v. Stanley, S.C. Ct. App. Opinion NO. 4007 (2005)

- PERJURY -

Anderson, J., D.L. Stanley appeals his conviction for Trafficking in Crack Cocaine. Deral argues: (1) he was prejudiced when the trial Court Ordered the imprisonment of a witness who contradicted his prior Statement to the police on the witness Stand, and then later allowed the witness to return to testify; and (2) the trial Court erred by failing to grant his Motion for a Directed Verdict "We affirm"

The Trial Court sent the Jury out and asked whether the Statement had been under oath. The State asserted that the Statement was made under oath. (1) The Trial Judge then warned Richard that if his trial testimony differed substantially from his prior Statements, he could be indicted for Perjury.

After his testimony, the Trial Judge asked Richard to remain in the Court room because he might be subject to recall.

THE COURT: Under oath you just testified that you are guilty in /// you said that under oath!

MR. STANLEY: Yes Sir!

THE COURT: Arrest this man, put him in jail, leave him there. He's either guilty of his own admission in /// or he's guilty of perjury.

He's to go to jail. Have him indicted first thing in the morning.

I will not permit that sort of conduct in my Court room.

THE COURT: They are going to put you back on the Stand, All I'm interested in is you telling us the truth and the absolute truth and nothing but the truth. do you understand that.

Defense Counsel moved for directed Verdict of not guilty. Additionally, defense moved for Mistrial based on the trial Judge handling of Richard's testimony. "The Judge denied both Motions."

At close of evidence, defense renewed his motion for a Directed Verdict and a Mis-Trial. Both were denied."

The Jury found III guilty of III because Richard had two prior Convictions. He received III. Defense counsel made post-trial motions for a Miss-Trial, a new-Trial, and Judgement notwithstanding the Verdict. The Judge denied.

The power of a court to declare a mistrial ought to be used with the greatest caution under urgent circumstances "See Linda Brown" and for a plain and obvious cause stated in Record by the Trial Judge "see State v. Simmons, - 352 S.C. 342, 354, 573 S.E.2d 856 (Ct. App. 2002) (quoting State v. Kirby, - 269 S.C. 25, 236 S.E.2d 33 (1977)); see also State v. Patterson, 337 S.C. 215, - 522 S.E.2d 847 (Ct. App. 1999) (stating Mistrial should only be granted in cases of manifest necessity and with the greatest caution for very plain and obvious reasons). The granting of a Motion for a mistrial is an extreme measure which should be taken only where an incident is so grievous that prejudicial effect can't be removed in no other way, see - State v. Beckham, 334 S.C. 302, 513 S.E.2d 606 (1999); Adams, 354 S.C. at 377, 580 S.E.2d at 793.

A mistrial should only be granted when "absolutely necessary", and a defendant must show both error and resulting prejudice "see Linda Brown and Doctor Bethea and Doctor Benedetto States Witnesses". In order to be entitled

to a mistrial, Harris, 340 S.C. at 63, 530 S.E. 2d at 628; Simmons, 352 S.C. at 354, 573 S.E. 2d at 862; see also State v. Council, 335 S.C. 1, 515 S.E. 2d 508- (1999) (Finding mistrial should not be granted unless absolutely necessary; to receive a mistrial, defendant must show error and resulting prejudice). The less than lucid test is therefore declared to be whether the mistrial was dictated by manifest necessity or the ends of public justice. State v. Prince, 279 S.C. 30, 33, 301 S.E. 2d 471, 472 (1983). "Whether a mistrial is manifestly necessary is a fact specific inquiry". State v. Rowlands, 343 S.C. 454, 457, - 539 S.E. 2d 717, 719 (Ct. App. 2000).

S.C. Code Ann. § 16-9-10 provides in pertinent part:

(A)(1): It is unlawful for a person to wilfully give false, or misleading, or incomplete testimony under oath in any court of record, Judicial, administrative, or regulatory proceedings in this State.

(A)(2): It is unlawful for a person to wilfully give false, misleading, or incomplete information on a document, record, report, or form required by law of this State.

• SOUTH CAROLINA CODE ANN. § 16-9-10 (2003) -

Giving false testimony at trial constitutes the felony of Perjury and subjects the perjurer to a fine and/or up to five years imprisonment Collins v. Doe, 343 S.C. 119, 124, 539 S.E. 2d 62, 64 (Ct. App. 2000), reversed on other grounds, 352 S.C. 462, 574 S.E. 2d 739 (2002). Perjury or false swearing may constitute contempt of court see, e.g. Crute v. Crute, 70 S.E. 2d - 727 (Ga. Ct. App. 1952).

In the case sub judice Richards initial testimony directly contradicted his prior testimony given in police Statement. Giving false information in a document or report required by the laws of this State is perjury. See S.C. Code Ann. § 16-9-10 (A) (2), thus, if the information given to Officer Little was false. Richard is guilty of perjury. If the Info. was true, Richard perjured himself on the stand by contradicting it under Subsection (A) (1).

It is the duty of the Court to exercise supervision and control over the witnesses in attendance at the trial. 23 A. CJS Crim. Law - § 1191 (1984). In South Carolina, it is firmly settled that the presiding Judge has the right to order the arrest of a witness in open court, who has made contradictory statements amounting to perjury.

The Supreme Court Addressed this issue in State v. McKay, 89 S.C. - 234, 71 S.E. 858 (1911). On the contrary, we are inclined to commend prompt action by those charged with the administration of the law, when it has been flagrantly violated, and if perjurers, were more invariably and promptly and vigorously prosecuted and punished, there would be fewer miscarriages of Justice in our courts. Id. at 236, 71 S.E. at 859, thereafter, in State v. Campbell, 150 S.C. 449, 148 S.E. 472 (1929), the Supreme Court explained,

STATE v. McKay, 89 S.C. 234, 71 S.E. 858 (1911); The Trial Judge is present in the atmosphere of the trial; and he must, in the administration of justice, uphold the dignity of the courts, and he would be derelict in his duty if he did not take such steps as he conceives it his duty to see that justice is administered in accordance with sound principles of law.

It might be said in passing that it does not appear in the case for -

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appeal that the judge actually had the witness arrested, and under the rules of this court no exception can be considered which does not find substantiation in the printed case.

All courts have inherent power to punish for contempt see - Cyrlie v. Howle, 277 S.C. 377, 287 S.E. 2d 915 (1982); State v. Passmore, 363 S.C. 568, 611 S.E. 2d 273 (Ct. App. 2005). This power is essential to the preservation of order in Judicial Proceedings and the due administration of Justice, *Id.*

The Trial Judge was supposed to act within his discretion to warn witnesses about perjury and take action to prevent the miscarriage of Justice by witnesses perjury.

The South Carolina rule is in accord with that of other jurisdictions. in State v. Sheffield, 228 P. 2d 431 (N.M. 1951) the trial testimony of a State's witness contradicted earlier statements given to police officers. The Supreme Court of New Mexico, citing State v. McKay and State v. Campbell, amplified.

It appears from the record that during the progress of the trial in the presence of the Jury "See Trial Counsel (P.C.R.), Doctor Bethea, Dr. Benedetto, Lindy Brown, Mike Williams, Minor, Inu David Blevins" and while Oscar Connally was on the Stand testifying as a witness for the State, the Court told the District Attorney to "Enter a Contempt of Court" charge against this man for perjury and to deliver him to the State Custody of the Sheriff.

The action of the Court was within the power and sound discretion of the trial Judge. That it might have had a bad effect upon the Jury "see Dr. Benedetto vs. Trial Court at ROAp. 137 at 1-25; ROAp. 138 at 1-11; ROAp. 139 at 5-25; ROAp. 140 at 1-6. And Linda Brown ROAp. 40-64. and thereby prejudiced the defendants case, was a matter to be considered by the trial judge at the time he committed the witness to the custody of the Sheriff, but we don't think it was error to do so under the circumstances, State v. McKay, 89 S.C. 234, 71 S.E. 858 (1911); State v. Campbell, 150 S.C. 449, 148 S.E. 2d 472; People v. Hayes, 140 N.Y. 484, 35 N.E. 951, 23 L.R.A. 830, 37 Am. St. Rep. 572; Beavers v. U.S. 6th Cir. 3F-2d 860.

Id. at 431, thereafter, the Court of Appeals of New Mexico Inculcated:

A Trial Judge is NOT required to sit idly by and allow perjury to be committed without bringing it to the attention of proper authorities. State v. Brown, 124 Ariz. 97, 602 P. 2d 478 (1979). A Judge has the responsibility for safeguarding both rights of the accused and the rights of the public in administration of Criminal Justice. ABA Standards for Criminal Justice §B-1.1 (2d. ed. 1980).

- DIRECTED VERDICT -

On Appeal from denial of a directed verdict in a Criminal Trial, an Appellate Court must view the evidence in light most favorable to the State. State v. Curtis, 356 S.C. 622, 591 S.E. 2d 600 (2004); State v. Al-Amin, 353 S.C. 405, 578 S.E. 2d 32 (Ct. App. 2003). When ruling on a motion for a Directed verdict, the trial Court is concerned with the existence or non-existence of evidence, not its weight. State v. Cherry, 361 S.C. 588, 606 S.E. 2d 475 (2004);

State v. Melancon, 349 S.C. 488, 563 S.E.2d 346 (Ct. App. 2002). If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, this court must find the case was properly submitted to the jury State v. Harris, 351 S.C. 643, 572 S.E.2d, 267 (2007); State v. Follin, 352 S.C. 235, 573 S.E.2d 812 (Ct. App. 2002); see also - State v. Horton, 359 S.C. 555, 598 S.E.2d 279 (Ct. App. 2004) (Noting Judge should deny motion for Directed Verdict if there is any direct or substantial circumstantial evidence which "reasonably" tends to prove accused's guilt, or from which his guilt may be fairly and logically deduced).

On the other hand, a defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged. State v. McKnight, 352 S.C. 635, 576 S.E.2d 168 (2003); State v. Crawford, 362 S.C. 627, 608 S.E.2d 886 (Ct. App. 2005).

The Trial Court should grant a directed verdict when the evidence merely raises a suspicion that the accused is guilty State v. Zeigler, 364 S.C. 94, 610 S.E.2d 859 (Ct. App. 2005); State v. Wilds, 355 S.C. 269, 584 S.E.2d 138 (Ct. App. 2003).

The Appellate Court may reverse the trial Judge's denial of a Motion for a Directed Verdict only if there is no evidence to support the judge's ruling; State v. Gaster, 349 S.C. 545, 564 S.E.2d 87 (2002).

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MIDTRIAL MOTIONS TRIAL COUNSEL

ROAp. 153 at 11-22 Trial Counsel makes her mid-trial motion.

ROAp. 154 at 4-10 based on the State has not produced sufficient evidence, or Credible Evidence at 7-8.

Under case law State v. Johnson, (S.C. 1999), the State has the burden to prove "Penetration" in a Criminal Sexual Conduct case. Trial Counsel's failure to object to evidence that was insufficient to create a jury issue on penetration in which was the element.

S.C. Code of Law Ann. § 16-3-655 (2) A person is guilty of Criminal Sexual Conduct with a minor in the 2nd degree when the actor engages in "Sexual Battery" with a female who is 14 years old or less, but who is at least 11 years old. "Sexual Battery" is Sexual Intercourse, Cunnilingus, Fellatio, anal Intercourse or any intrusion, however slight, of any part of a person's body or any other object into the genital or anal opening's of another person's body.

Evidence Jackson v. Virginia, 443 U.S. 307, 61 L.Ed. 2d 562, 99 S.Ct. 2781 (1979): Constitutional test for sufficiency of the evidence is "whether after viewing the evidence in light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."

The Jackson Standard has been modified by 28 U.S.C. § 2254(d) "Federal review of (Jackson) claims therefore, now turns on whether the State Court provided fair process and engaged in reasoned, good-faith decision making when applying Jackson's 'no rational trier of fact' test."

Trial Counsel knew that pursuant to State v. Johnson, 512 S.E. 2d 795 (S.C. 1999) the element was "penetration" But however, trial counsel at ROAp. 154 at 11-25 - her motion to the court to move in the form of a Jury charge request, that the court would direct a verdict to "one element" "Not penetration" but that the applicant was not in a (position of Authority Or Custody. This

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prejudiced her client. "This was a very unusual motion" because the Trial Court at ROAp. 155 at 12-14. Trial Court states you actually want that?

However, the court does and the State agrees to exclude that element to the jury. Then the Trial Court denies the motion on the rest of the charges and stated at 156 at 5-11 Trial Court would be inclined to grant it, but I think it's a Jury issue. But at 2-11 I think it's interesting that there is no testimony in the record, so far as I'm aware of as to what the -- that's the only thing that's there is what the defendant's age is; but I don't know. 157 at 1-9. Also Trial Court tells counsel that there was plenty of evidence to support the charges.

Defense Counsel renewed her Directed Verdict motion and preserved it for Appellate review. (ROAp. 161 at 18 and ROAp. 162 at 18) and again it was denied by Trial Court.

Appellate Counsel Eleanore Duffy Cleary deprived applicant of his due process rights to effective Assistance of Counsel on his first appeal, as of right, pursuant to the due process clause of the Fourteenth Amendment Evitts v. Lucity, 469 U.S. 387, 83 L.Ed. 2d 821, 105 S.Ct. 830 (1985). Failing to address all vital issues that were preserved for appellate review. And filing a Anders Brief Violating applicants 6th and 14th Amendments to the United States Constitution Pennsylvania v. Finely, 481 U.S. 551 (1987); Ross v. Moffitt, 417 U.S. 600 (1974); U.S. v. Swanson, 943 F.2d 1070 (9th Cir. - (1991).

(EVIDENCE)

Prosecution's Evidence consisted of Perjury, Inconsistent Statements, and Prosecutorial Misconduct and using unfair Prosecutorial tactics. AS FOLLOWS:

Trial Court Abused his Discretion and law, by not honoring the directed verdict. State v. Gaster, 349 S.C. 545, 564 S.E.2d 87 (2002)

pursuant to State v. Brown, 124 Ariz. 97, 602 P. 2d 478 (1979)

A Judge has the responsibility for safeguarding both rights of the accused and the rights of the public in administration of Criminal Justice
ABA Standards for Criminal Justice §6.1.1 (2d. ed. 1980)

- OPENING STATEMENTS SOICITOR -

ROAp. 31 at 22-25; ROAp. 32 at 1 the State starts off showing sympathy and bolstering his case to the jury, regarding the alleged victim.

ROAp. 32 at 20-25 Very prejudicial to defendant, Linda not only knew but at sometimes participated in it. Making her a Co-Defendant.

State v. Martin, 292 S.C. 437, 439, 357 S.E.2d 21, 22 (1987) Citing Brunton
Thus, Brunton is grounded in two concerns, a defendant's Constitutional right to cross-examine his accusers and the inherent unreliability of statements made by a defendant who stands to gain by shifting blame to a Co-Defendant.

On the presented evidence evidence, there is simply no evidence, let alone any clear and convincing evidence, that the applicant was the alone Sube perpetrator.

Record clearly shows that Linda Brown did in fact admit to the jury that she participated in the alleged Sexual Abuse, and for the State to tell the jury that Linda ROAp. 173 at 3-15. No matter how disappointed, disgusted, or totally through that you are with the actions of Linda Brown, and her refusal, her inability and even her criminal Acts against her daughter, this case is not about Linda Brown. It's about Noel Gray. Noel Gray should not be allowed to pass because her mother did what she did. He's guilty. He did it and there is no excuse that would allow him to walk just because the mother had failed to protect her daughter. Just because she offered her up, he didn't have to take it. But that's exactly what he did.

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This Closing Argument by the State clearly bolsters the State's case, and alone this statement from the State was extremely prejudicial, as well as Linda admitting to her sexual assault on her own daughter.

This smoke screen used by the State was unconstitutional, fundamentally unfair, and deprived the applicant of a fair trial.

Now in Closing Argument's from Trial Counsel ROA p. 178 at 4-13; ROA p. 184 at 2-25 Trial Counsel told the jury that the State accused her of using Linda Brown as a smoke screen, to bolster the credibility at 2-3

The Aiken County Solicitors Office is in fact in violation of applicant's 6th and 14th Amendments to the United States Constitution. In which deprived the Applicant his due process right to a fair Trial by means of Prosecutorial Misconduct.

violation #1) Prosecutor's Chandler and Brishin failed to correct perjured testimony of witnesses in which is grounds for reversal of Conviction DeMarco, V. U.S. 928 F.2d 1074 (11th Cir. 1991); Linda Brown (Cross Exam) ROA p. 51 at 12-14; 52 at 5-13; (52 at 14-25 see ROA p. 42 at 12 Direct Exam; ROA p. 53 at 12-25; 54 at 2-9; See ROA p. 56 at 13-25 Solicitors Office; 57 at 7-8; 18-22; 60 at 16-24; 61 at 20-25; 62 at 12-22; 63 at 14-15; Minor _____ (Direct Exam) ROA p. 67 at 1-2; 75 at 5-6; 76 at 24-25; 77 at 1; 78 at 15-17; 81 at 12-24; (Cross Exam) 83 at 1-25; 84 at 15-25; Mike Williams (Direct Exam) ROA p. 90 at 5-7 See Sleeping Christine ROA p. 70 at 9-25; Linda ROA p. 44 at 5-8; ROA p. 90; 99; David Blewins (Direct Exam) 101 at 11-17; (Cross Exam) 105 at 7-25; 107 at 13-25; 109 at 6-7; 109 at 8-9; Dr. Bethea (Cross Exam) ROA p. 126 at 17-25; 125 at 1; ROA p. 122 at 8-17; 128 at 3-19; 129 at 4-7 Redirect Exam / 129 at 17-25 Recross Exam; 130 at 12; Lying about Hymen; Dr. Benedetto (Cross Exam) 150 at 4-23; 151 at 6-9; .

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Prosecutors Statement during trial that Linda Brown 'Served her daughter up and participated in sexual acts towards her daughter' and the defendant never confessed to C.S.C. with a minor 2nd degree, when Linda Brown's confession given several months earlier, and his repeated allegations of Linda Brown's confession rendered trial fundamentally unfair and warranted applicant a new trial Davis v. Zant, 36 F.3d 1538, (11th Cir. 1994).

Also the remarks made by solicitor during closing arguments were so prejudicial as to violate the applicants due process rights, The Supreme Court held in Donnelly v. DeChristoford, 416 U.S. 637, 40 L.Ed. 2d 431, 90 S.Ct. 1868 (1974) the prosecutors remarks, in the context the entire trial, were not sufficiently prejudicial to violate defendant's rights, primarily in view of the State Courts instruction that the prosecutor's remark was improper and should be disregarded "but in this case applicant contends that the Honorable never addressed the jury to prosecutors unconstitutional closing arguments, which rendered applicants trial to be fundamentally unfair.

Also for a police officer to lie to a prosecutor or grand jury can be prosecuted Mahoney v. Kesery, 976 F.2d 1054 (7th Cir. 1992) when Trial Counsel could have impeached Investigator David Blevins' testimony for perjury "Police fabrication" and failure to use official police reports to establish those facts Tejeda v. Dubois, 142 F.3d 18 (1st Cir. 1998); Hadley v. Groose, 97 F.3d 1131 (8th Cir. 1996).

The Government has a duty to inform the Court of its knowledge of false testimony at trial Napue v. Illinois, 360 U.S. 264, 2 L.Ed. 2d 1217, 79 S.Ct. 1173 (1959).

It is well established that a prosecutor may not use the bully-pulpit of a closing argument to inflame the passions or prejudices of the jury or to argue facts not in evidence U.S. v. Childress, 58 F.3d 693 (D.C. Cir. 1995) quoting U.S. v. North, 910 F.2d 843, 854 (D.C. Cir. 1990).

The Prosecution for the 2nd Judicial Circuit Court of Aiken County also violated applicants due process rights to a Fundamentally Fair and Constitutional Trial by Prosecutorial Misconduct.

The Supreme Court Reversed and remanded for a new trial petitioner's case after evidence was newly discovered that the Government failed to disclose a promise of leniency made to its key witness in return for a witness's testimony Giglio v. U.S. 405 U.S. 156, 31 L.Ed. 2d 104, 92-5.Ct 763 (1972)

Opening Statements Solicitor Chandler

ROA p. 32 at 20-25; ROA p. 34 at 17; Linda Brown ROA p. 44 at 20-25; (Cross Exam) ROA p. 52 at 5-6; ROA p. 63 at 17-25;

Closing Arguments By Solicitor Chandler

ROA p. 163 at 22-25; 164 at 1-2; 17-18; ROA p. 165 at 5-12; 22-23; ROA p. 168 at 17-25; 169 at 1-2; 3-16; 170 at 1-5; 23-25; Take Judicial notice to ROA pg. 171 at 7-12 alleged victim's testimony was corroborated by her mother's testimony, ROA pg. 171 at 21-23; ROA pg. 173 at 3-15.

After/ Newly Discovered evidence pursuant to Rule 29(b) S.C. Code Ann. § 17-27-45 (C) Lanier v. Lanier, - 364 S.C. 211, 612, S.E.2d 456 (S.C. Ct. App. 2005) Cronic, supra, - U.S. v. Cronic, 466 U.S. 648, 653 (1984); S.C. Code Ann. § 17-27-100 Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

Applicant should be appointed Counsel and an Evidentiary hearing should be Granted.

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The Applicant contends also that Trial Court Honorable Jackson U. Gregory violated applicant's due process of law, denied him equal protection of the law and deprived him of his Sixth and Fourteenth Amendments to the United States Constitution by denying his Motions for Directed Verdict and Mistrial.

By this the Honorable clearly Abused his Discretion of the law.

The trial Court erred in permitting the jury to learn the applicant had a prior after Trial Counsel Cross-Examined States witness Mike Williams ROA p. 96 at 1-4 in which labeled applicant off being arrested before Harmful error by Trial Counsel see: - U.S. v. Jones, 67 F.3d 320 (D.C. Cir. 1995), U.S. v. Jacobs, 44 F.3d 1219 (3rd) and U.S. v. Blackburn, 592 F.2d 300 (6th).

Also Trial Courts "Behind the Scenes" was extremely inflamed by Linda Browns Appearance in Court see ROA p. 255 at 17-25, 256 at 5-8 - 12-14, Trial Court was really traumatized by Linda Brown's foul conduct on her own child. see 255 at 20-21. This clearly shows that if the trial Court responded to Linda Browns husband Greg Brown ROA p. 254 at 24, than this Honorable Court would know how the Jury took it. Therefore, Evidence supported through material facts clearly proves prejudicial conduct between Trial Court, Trial Counsel and Solicitors Chandler and Brislin.

In which rendered Applicants Trial Fundamentally Unfair, and to be allowed not to have a new trial would be a grave miscarriage of Justice -

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INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL VS. PROSECUTORIAL MISCONDUCT

In State v. Martin, 292 S.C. 437, 439, 357 S.E.2d 21, 22 (1987) (Citing Bruton) Thus, Bruton is grounded in two (2) concerns, a defendant's Constitutional rights to cross-examine his accusers and the inherent unreliability of the statements made by a defendant who stands to gain by shifting the blame to a co-defendant. See Linda Brown, ROA pg. 440-45.

The States case was built not on the alleged victims testimony as pursuant to State v. Gatlin, 38 S.E.2d 238, 208 S.C. 414 (1946). But on the alleged foul conduct of Linda Brown the alleged victims mother.

November 7, 2011 appellant wrote to the Aiken County Clerk of Court to research on an New issue that was brought to light pursuant to Giglio v. U.S. - 405 U.S. 150, 31 L.Ed. 2d 104, 92 S.Ct. 763 (1972); The Supreme Court reversed and remanded for a new trial in petitioners case after evidence was newly discovered that the Government failed to disclose a promise of leniency made to it's key witness in return for witness's testimony. (see Attachments) filed July 3, 2012

Trial Counsel was ineffective for failing to object to Prosecutorial Misconduct by using a witness "who admitted to lying on stand under oath" to bolster the credibility of the alleged victim by not only inflaming the minds of the jury but the trial Court as well, in which was harmful error and prejudiced the appellant to a fundamentally fair trial in violation of the Sixth and Fourteenth Amendments to the United States Constitution.

November 22, 2011 the Aiken County Sheriffs Department sent appellant an Official Letter head informing him that Linda Brown was not charged nor indicted for her unlawful sexual act against her own daughter. (see EXHIBIT # 37 in 2011-CP-02-02776) Also see Amendments filed July 3, 2012

OPENING STATEMENTS BY SOXICITOR

ROA pg. 32 at 22-25; ROA pg. 34 at 17; Linda Brown ROA pg. 44 at 20-25; (Cross-exam) ROA pg. 57 at 5-6; ROA pg. 63 at 17-25.

CLOSING ARGUMENTS BY SOUCITOR

ROA pg. 163 at 22-25; 164 at 1-2; 17-18; ROA pg. 165 at 5-12; 22-23; ROA pg. 168 at 17-25; ROA pg. 169 at 1-2; 3-16; ROA pg. 170 at 1-5; 23-25; also please take Judicial Notice to ROA pg. 171 at 7-12 ("alleged victims testimony was corroborated by her mother's testimony") ROA pg. 171 at 21-23; ROA pg. 173 at 3-15. Pursuant to S.C. Code Ann. § 17-27-45(c) this issue is under the one (1) year Statute of Limitations and is ripe for review.

This testimony alone violated appellants Due process of law and denied him of Equal Protection of the law. Because of Trial Counsel's unprofessional errors not only did she fail to object to Linda Browns testimony, but she labeled appellant of being in trouble before See States witness Milce Williams ROA pg. 96 at 1-4 U.S. v. Jones, 67 F.3d 320 (D.C. Cir. 1995); U.S. v. Jacobs, 44 F.3d 1219 3rd and U.S. v. Blackburn, 592 F.2d 300 (6th).

Material facts will clearly show that Trial Court Judge Jackson U. - Gregory was prejudicial towards appellant due to Linda Browns testimony, Trial Court was inflamed by her appearance in court see ROA pg. 255 at 17-25; ROA pg. 256 at 5-8; 12-14; Trial Court revealed his true prejudice towards appellant upon Linda Brown's Husband Greg Brown and also shown hard feelings towards appellant see Verdetts State v. P. Schmidt No. 2251 (S.C. 1986) page 10, The appellant contends that if the Trial Court took her testimony as "I'm indicting her because I think it's one of the worst things I've ever seen in all my years as a judge and a lawyer" ROA pg. 255 at 17-25; ROA pg. 256 at 1-8, then this court will know how inflamed the minds of the jury was. this act of Prosecutorial Misconduct rendered appellants trial fundamentally unfair and was shocking to the universal Sense of Justice.

On the presented evidence, there was simply no evidence let alone any clear and convincing evidence, that the Appellant was the alone Sole perpetrator. The Record clearly shows that Linda Brown did in fact admit to the jury that she participated in the alleged Sexual assaults on her own.

daughter, and for the State to tell the jury that this trial is not about Linda Brown today even though her name was used - ROA pg. 32 at 22-25; ROA pg. 34 at 17; ROA pg. 163 at 24-25; 164 at 1-2; 17-18; 165 at 5-12; 18-23; (ROA pg. 166 at 4-8 an objection by trial counsel); ROA pg. 168 at 16-25; ROA pg. 169 at 1-25; ROA pg. 170 at 3-5; 23-25; ROA pg. 171 at 22; ROA pg. 172 at 7-8; ROA pg. 173 at 3-15; Record clearly shows that the appellant was found guilty by jury because of Linda Brown's actions and not the appellants. See ROA pg. 110 at 11-14 Cross-Exam Inu. David Blewins mom never participated, ROA pg. 111 at 19-25; ROA pg. 112 at 1-2; 19-25, clearly bolsters the States case, and alone this statement from the State was extremely prejudicial, as well as Linda Brown admitting to her sexual assault on her own daughter, this smoke screen used by the State was unconstitutional, fundamentally unfair, and deprived the Appellant of a fundamentally fair trial by jury. See ROA pg. 178 at 2-25; ROA pg. 180 at 1-25; ROA pg. 181 at 1-25; ROA pg. 184 at 1-25 Trial Counsel Closing - Arguments)

But even though Linda Brown confessed to her sexually assaulting her own daughter and participating in the alleged sexual abuse of her own daughter was harmful error, this confession meant giving consent to the alleged acts against her own daughter. The State led the jury to believe that Linda Brown was going to be prosecuted herself, for the alleged sexual assault on her own daughter. But in this case "she was not" this is clear and convincing evidence to show cause for Procedural Default" because with States interference" by using Prosecutorial Misconduct and using unfair Prosecutorial Tactics to secure a conviction by the use of Linda Brown's lies in which made her a "Co-Defendant" shifting the blame on Appellant.

Under the Fourth, Sixth, and Fourteenth Amendments of the United States Constitution, Linda Brown is protected because she is of control,

Care and Custody of the alleged victim, therefore, any neglance of her Constitutional Rights, and any acknowledgement that violates, becomes sole principle see Bruen v. U.S., 391 U.S. at 126, 88 S.Ct. at 1621. Therefore, if Linda Brown had no knowledge of any alleged Sexual assaults that the appellant would be the sole perpetrator.

But in this case, it is not so. Linda Brown the sole person who has full custody, Care and Control over the alleged victim "her mom" admitted to her assault on her own daughter, therefore, this makes a clear and Convincing Conspiracy theory.

In this case, the alleged abuse of the alleged victim differs from other types of C.S.C. crimes in several respects, specifically, most C.S.C. cases often occur is secret. typically in the privacy of one's home. However, in this case, all the alleged occurrences happened at Mike William's Residence pursuant to the alleged victim, see ROA pg. 87 at 6-20 Vendetta; but mom never participated in any sexual encounters at the trailer per the alleged victim. And it is not confined to a single instance, but rather is a systematic pattern, of alleged assaults, progressively escalating in a act of consented intent. See ROA pg. 81 at 4-5

Please take Judicial notice to Linda Brown's testimony, and testified that the appellant would have Sexual Intercourse with my daughter and use me as a feel partner". ROA pg. 44 at 20-22; ROA pg. 168 at 24-25; ROA pg. 169 at 1-2. In several places Linda Brown admitted to "intercourse" and "partner" but the alleged victim in this case, a daughter in the care, custody and control of her mother was completely dependant upon her abuser Linda Brown, If the appellant was the sole perpetrator or abuser, as a principle, the the alleged victim would be too young to alert anyone the his alleged horrendous plight or ask for help.

On the contrary, the alleged victim would not attempt to defend herself against her mother against such act. In this instance, the alleged victim would be incapable of truly offering testimony against her real

abuser, her own mother. For these reasons, proving that appellant is guilty of the charge of C.S.C. against the alleged victim would be fundamentally unfair for the jury to assume that Linda Brown would not be free of any blame. Appellant was denied due process when the State in closing Arguments told the jury ROA pg. 173 at 3-15 "This case is about responsibility, And no matter how disappointed, disgusted, or totally through that you are with the actions of Linda Brown and her refusal, her inability and even her criminal acts against her daughter, this case is not about Linda Brown today. It's about Noel Gray. Noel E. Gray should not be allowed to pass because her mother did what she did: He's guilty, He did it, and there is no excuse that would allow him to walk just because the mother had failed to protect her daughter. Just because she offered her up, he didn't have to take it, But that's exactly what he did, He took it away from her. He exposed her to inappropriate Conduct." This act of Prosecutorial Misconduct and using unfair Prosecutorial Tactics Biggio v. U.S., 405 U.S. 150, 31 LEd. 2d 104, 92 S.Ct. 763 (1972) was clearly used as a smoke screen to cover up the alleged victim's lies and inconsistencies, to distract Trial Counsel See ROA pg. 178 at 2-20; ROA pg. 184 at 2-9 and it also raised State interference that Linda Brown's neglect and failure to protect [her] child from alleged abuse and welfare, extreme indifference by deliberately sitting by and allowing a child's life to be threatened by the alleged abuse of another.

This failure to act to protect, rendered the outcome of all reliability of being fair. Last, there was not any material Evidence that the Appellant caused any harm to the alleged victim until the "mystery caller" informed the police that there may be abuse against the alleged victim See ROA pg. 33 at 14-18; ROA pg. 164 at 19-25; ROA pg. 165 at 1-4. However, when this second call was made "came to light" the Applicant was no longer there see ROA pg. 87 at 1-20.

Therefore, the appellant was denied effective assistance of counsel for not interviewing/investigating the root of the alleged abuse and the nature of the mysterious caller's call. Jackson v. Virginia, 443 U.S. 307, 61 LEd. 2d. 560, 99 S.Ct. 2781 (1979).

- FEDERAL IADA CONTRACT VIOLATIONS / TRIAL COUNSEL'S -
- PERJURY / PREJUDICE -

Please take Judicial notice to the following information.
These issues are Complexed and a lot transpired since the trial and his
After-Discovered Evidence Claims: The Material Facts Follows!

- (1) The petitioner met Linda Brown and Mike Williams July 13, 2001 at a Bar in Augusta, Ga. ROA pg. 89 at 2-7.
- (2) November 13, 2001 petitioner was arrested at Mike Williams's Residence for Probation Violation see ROA pg. 96 at 1-4 "Ineffective Assistance of Trial Counsel who labeled her client of being in trouble" "messing with Christina in the Jury's eyes" "Harmful error" before.
- (3) Petitioner was sent back to Georgia for Probation Violation see ROA pg. 53 at 12-16
- (4) Between the Months of November 13, 2001 to March 26, 2002 the petitioner was in Jail in Georgia. Sometime during these months Linda Brown and Mike Williams Paid \$3,000.00 for Attorney George Bush of Augusta, Ga. see September 29, 2006 Official letter head and October 14, 2004 official letter head.
- (5) Lora Becky Williams wrote a Statement to police regarding petitioner see EXHIBITS dated September 22, 2001 see ROA pg. 58 at 1;
- (6) Michael Williams Junior wrote a Statement to police regarding petitioner see EXHIBITS dated November 20, 2001 see ROA pg. 58 at 6;
- (7) The alleged Victim writes a Statement to police regarding petitioner see EXHIBITS dated November 22, 2001 see ROA pg. 85 at 11-25;
- (8) Linda Brown wrote a Statement to police regarding petitioner see EXHIBITS Dated November 22, 2001 see ROA pg 54 at 16-25;
- (9) Mike Williams wrote a Statement to Police regarding petitioner see EXHIBIT dated November 30, 2001 see ROA pg. 96 at 8-25;
- (10) Linda Brown's Doctor writes to police see EXHIBIT Dated December 17, 2001
- (11) Sometime between November 13, 2001 and March 26, 2002 Linda Brown and Mike Williams paid \$1,000.00 Restitution for petitioner.
- (12) March 26, 2002 the petitioner was released from Jail in Georgia and had to report to Mental Health see Docket NO. 1:03-263 # 35
- (13) the Honorable Garlett Orders petitioners Probation be reinstated March 14, 2002

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- (14) Evidence also shows that Trial Counsel failed to have her client evaluated by Mental Health See Docket No: 1:03-263 at 50-51
- (15) Official Medical / Mental Health Records to support Mental Condition;
- (16) Linda Brown and Mike Williams took defendant to Mental Health on March 27, 2002 but was not admitted. see Docket #52
- (17) July -30, 2002 Linda Brown paid \$1,062.50 for a Simple Larceny See Warrant # I-115074
- (18) September 11, 2002 Investigator Tim Randall #4122 of the Aiken County Sheriff's Department was called by an anonymous person that He observed Gray fondling, kissing and exposing himself to the victim see Supplemental Incident Report. He goes to victim's school and see A.C. Sheriff's Office Incident Report.
- (19) Investigator Tim Randall along with New Ellenton Police Department Inv. Hough Ray comes to the residence and speaks to Linda Brown and the victim
- (20) Both deny the allegations and case is dismissed see Interview worksheets, dated September 11, 2002
- (21) Same day same to Investigator come back to the residence wanting to talk to petitioner see Docket No: 1:03-263 at 9
- Please take Judicial Notice to Investigator David Blewins ROA pg. 101 at 10-23 Purjury; ROA pg. 105 at 1-25 Purjury; Also take Judicial Notice to ROA pg. 108 at 6-7 Purjury; petitioner was there Trial Counsel ineffective for failing to impeach Investigator's testimony Orr v. State, (GA. App. Ct. 2003) Counsel ineffective in a Statutory Rape case for failing to object to police officers testimony that impermissibly bolstered the credibility of alleged victim where credibility was a major issue on penetration. Also see Tejeda v. Dabois, 142 F.3d 18 (1st Cir. 1998); Hadley v. Groose, 97 F.3d 1131 (8th Cir. 1996) where counsel failed to present a coherent Argument to the jury and Judge Based on defense of Police Fabrication and failure to use police Reports to impeach police officers testimony that was contradicted by body of police Reports.
- (22) On September 11, 2002 the petitioner and Linda got into an argument and he left her see ROA pg. 87 at 6-20 "Vendetta" citing State v. P. Schmidt No. 2251 (SC. 1986) Defendant was convicted by General Sessions Court Horry County, for 1st degree C.S.C. with a Minor and he appealed. The Supreme Court Hartwell, J held that evidence concerning hard feelings between child's family and defendant was relevant Reversal and Remand"

- also see RoA pg. 255 at 1-5 and RoA pg 256 at 9-11.
- (23) Petitioner was gone from September 11, 2002 Linda waits Nineteen days before calling police see RoA pg. 87 at 18-20 and RoA pg. 102 at 5-8
- (24) Interview Work Sheet dated September 30, 2002
- (25) Crime Victim Information dated September 30, 2002 Sgt. Blevins comes into the picture
- (26) Juvenile Supplementary Report dated September 30, 2002
- (27) Interview Work Sheet
- (28) Application for Criminal Arrest Warrant dated October 1, 2002
- (29) Please take Judicial Notice to this F-718985 Warrant for Criminal Domestic Violence §17-25-20 S.C. Code Ann. dated September 29, 2002 the petitioner was not even there "Vendetta"
- (30) D.S.S. Report Name Solicitor Everett Chandler dated October 7, 2004 the alleged victim told Solicitor not Police that mom was participating in Sexual encounters see RoA pg. 56 at 13-25; RoA pg. 83 at 1-25; RoA pg. 98 at 5-25; RoA pg. 111 at 19-25; RoA pg. 112
- (31) Dept. of Social Services dated October 25, 2004
- (32) November 19, 2004 at 12:31:54 case against Linda Brown unfounded
- (33) D.S.S. Visits petitioner, at Detention Center November 19, 2004 at 12:29:28
- (34) DSS Visits Linda Brown at November 8, 2004 at 11:47:59 denies messing with her daughter; Becky Williams molesting her child; suspicion that her boy friend was, but didn't know for sure until her neighbor told her. And her boy friend "the petitioner moved out" due to problems they were having. 111.
- (35) D.S.S. Visits alleged victim October 26, 2004 at 10:03:15 Mike's wife Becky Williams messed with her as well; stuck her tongue in victim's ear; and touched her breasts on the outside of her clothes; mom knew petitioner was having sex with her and mother told him to stop messing with her, and petitioner drugged her mom
- (36) Section 1: Informant Questionnaire Part II. mom and Mr. Gray got into an argument and he stated that he was leaving, which he did, "Vendetta"
- (37) January 25, 2004 petitioner filed for hearing, clerk of court denied him of his Constitutional Rights to be there.

(38) Dr. Alicia Benedetto MA dated November 7, 2002 Inconsistent Statement of alleged victim.

(39) ARC Interview November 6, 2002

Also please take Judicial notice to Linda Brown's testimony regarding her husband: ROA pg. 42 at 12 "iii, I was still with my husband" at 16-20 "we were fighting alot and split up"

ROA pg. 52 at 19-25 "Linda Brown tells trial Counsel she was separated from her husband" then we had planned to get a divorce at the time, we were separated. See 14-18 Please take Judicial notice to Mike Williams testimony ROA pg. 93 at 1-8, Linda Brown moved out when petitioner was in Georgia. But moved back in when petitioner moved back in. "Important"

(40) Section 1: Informant Questionnaire Part 1 Minor has ADD but has not been confirmed by a doctor and receives no treatment See ROA pg. 67 at 1-10 counsel ineffective for failing to object to ADD testimony "showing sympathy for alleged victim" misleading.

(41) Linda Brown tells the ARC now that September 30, 2002 she and Noel Gray argued and he left "never told them about CDU."

(42) Sexual Abuse / Assault Information Nothing dated November 6, 2002 Normal Physical Exam No Signs of Sexual Assault see ROA pg. 121 at 1-14.

(43) Lori Beck Williams Unfounded January 13, 2005

(44) Michael Williams Jr. Statement to Solicitors Office, see ROA pg. 70 at 11-14 His Statement is Noel Gray Affair with his mom "Statement About his Mom"

(45) Mike Williams ROA pg. 88-99 Statement to Solicitors Office dated September 30, 2004, He can't trust his wife around any man "Having affair with Noel Gray Take Judicial notice to these Statements "Nothing regarding petitioner and the alleged victim."

(46) Solicitors Voluntary Statement Form dated October 1, 2004 Linda Brown Take Judicial notice to this Statement she told the court she disclosed her alleged participation on October See ROA pg. 56 at 13-25. The petitioner Rubbed and felt on her and have sex with daughter; also the inconsistencies about telling petitioner to leave her daughter alone and then her daughter Coiled petitioner into the tent and room to have consensual sex with her. And she told people that Noel was her boyfriend.

- (47) Solicitors Voluntary Statement Form dated 6th October 2004 but not notarized by Kristine Brown. She met Noel when Mike III brought him to his house. "Me and my mom and Noel moved into the house with Mike. Please take Judicial notice to their earlier statements they were all ready living there, proves they were not. Also notice that her statement was tailored with her moms."
- (48) February 26, 2003 the Federal Authorities filed Indictment Criminal No: 1103-263 for Possession of a Military Firearm "Non-Violent" offense.
- (49) April 28, 2003 the U.S. Marshalls office brings petitioner to South Carolina from Kentucky.
- (49) The Federal Authorities interview petitioner at the Lexington County detention Center. August 18, 2003.
- (50) December 3, 2003 The Federal Authorities Files a writ of Habeas Corpus Ad Prosequendum to allow Aiken County to Serve warrants on him.
- (51) February 10, 2004 petitioner was sent to Aiken County.
- (51) February 11, 2004 petitioner receives a \$ 50,000.00 Bond.
- (52) February 17, 2004 petitioner receives Kelly Perkins Brown Public Defender.
- (53) August 5, 2004 petitioner wrote to the Federal Medical Center to receive a complete copy of his Federal IADA Contract.
- (54) October 19, 2004 the Federal Bureau of Prisons sent the Federal IADA to petitioner.
- (55) August 19, 2004 Solicitor Morgan Requests the Federal IADA.
- (56) May 11, 2004 The Federal Authorities Certified Mail IADA to Solicitor Morgan.
- (57) Federal Bureau of Prisons dated May 5, 2004 to Solicitor Morgan "Inmates who are temporarily transferred III remain under the primary jurisdiction of Federal Authorities, III Violated"
- (58) III this inmate is not to be committed to a State Correctional institution for service of any State Sentence that may be imposed as a result of your prosecution "Violated"
- (59) Pending IADA Prosecution Deadline November 11, 2004 Everett Chandler
- (60) Agreement on Detainers Form VI Solicitor Morgan and S.C.D.C. Director Jon Ozment For trial on or about October 18, 2004 "Violated"
- (61) Agreement on Detainers Form VII Solicitor Morgan / Judge Regina I. Lloyd dated July 29, 2004 I have by agree III immediately after trial "Violated"

- (62) Prosecutor's Certification Solicitor Chandler dated August 19, 2004.
(C);(D);(E) "violated" scheduled for trial October 18, 2004.
- (63) Place of Imprisonment Solicitor Morgan dated May 5, 2004
"Failure to take action 111, will result in the invalidation of the indictments
information; complaints" violated"
- (64) Acknowledgement petitioner Reported his violated IADA
- (65) offer to Delivery Temporary Custody "violated"
- (66) Certified of Inmate Status "Petitioner was still under the color of
federal law upon violation of Federal IADA.
- (67) February 15, 2005 Aiken County violates IADA by sending petitioner to
State prison by Officers Bowman and Etheridge
- (68) February 18, 2005 DNA is taken from a federal prisoner by State,
- (69) S.C.D.C. Evidence of Incarceration dated January 6, 2012
- (70) Petitioner is returned to County Jail from prison February 21, 2005
- (71) Petitioner files Grievance regarding violated IADA and S.C.D.C. destroyed
Federal Property February 27, 2005
- (72) Petitioner files Second Grievance regarding violated IADA on
February 28, 2005.
- (73) Petitioner files Third Grievance March 6, 2005 regarding violated IADA.
- (74) New Evidence Package October 12, 2011 December 25, 2004 petitioner
wrote to trial Counsel to dismiss charges pursuant to violated IADA.
- (75) Wrote to Judge Early regarding violated IADA. December 29, 2004
"Sends copy to Trial Counsel"
- (76) Wrote to Trial Counsel's Boss Mr. Wallis Alves regarding violated
Federal IADA January 4, 2005
- (77) Ms. Wallis Alves refused to Aid regarding Trial Counsel, January 7, 2005
- (78) Judge Early refused to Aid regarding Trial Counsel January 10, 2005
- (79) wrote Mr. Wallis Alves again January 19, 2005 regarding Trial Counsel's
Unconstitutional behaviour by filing an Illegel Continuance to kill petitioners
case.

FEDERAL INTERSTATE AGREEMENT ON DETAINERS ACT
ARTICLE III (D); ARTICLE V (E)
AS FOLLOWS WITH CASELAW

Trial Counsel was in error for filing an Unconstitutional Continuance regarding her Client's Federal Fast and Speedy Trial Contract; this was Ineffective Assistance of Counsel and Harmful error.

The Speedy Trial Act is found in 18 U.S.C. § 3161 et. seq. The Act specifies time limits in which a defendant must be tried. Section 3161(c)(1) States "In any case which a plea of Not Guilty is entered, the trial of a defendant charged in a Information or Indictment with the Commission of an offense shall commence within 180 days from the filing date (and making-public) of the Informations or Indictments, or from the date the defendant has appeared before a judicial Officer of the Court in which such charge is pending "which date last occurs." If the Act is not complied with it may result in the dismissal of Charges.

In the case of Barker v. Wingo, the U.S. Supreme Court listed four factors that are reviewed to determine whether an individual has had a right to a speedy Trial Unconstitutionally denied.

Barker v. Wingo, 407 U.S. 514, 33 L. Ed. 2d 101, 92 S.Ct. 2183 (1973);

The Supreme Court identified four factors to be used in determining whether a defendant has been denied his right to a Speedy Trial. They are: (1) Length of delay; (2) Reason of Delay; (3) the defendant's assertion of his right; and (4) the prejudice to the defendant.

A defendant's Constitutional right to a Speedy Trial cannot be established by any flexible rule, but can be determined by an ad hoc balancing basis, in which the conduct of the prosecution and that of the defendant is weighed.

In this case: for a long time petitioner thought it was the state who violated his contract; but being a layman that is expected.

But through his research. He finally came to realized it was his own Counsel who violated.

Hakeem v. Beyer, 990 F.2d 750 (3rd Cir. 1993): The reasons behind any prolonged delay in bringing a criminal defendant to trial are Significant factors in the analysis of defendant's Constitutional rights to a Speedy Trial. "[O]r deliberate attempts to delay the trial in order to hamper the defense should be weighed heavily against the Government.

Klopfer v. North Carolina, 386 U.S. 213, 87 S.Ct. 998, 18 L. Ed. 2d (1967); the right to a speedy trial guaranteed by the Sixth Amendment extends to State prisoners by way of the Fourteenth Amendment to due process clause.

U.S. v. White, 985 F.2d 271 (6th Cir. 1993) 18 U.S.C. § 3162(a)(2); requires that a defendant brings a motion for dismissal under the Speedy Trial Act prior to trial. Defendant who brought motion on the day of trial waived right to make this argument (see #71-79)

U.S. v. Crawford, 982 F.2d 199 (6th Cir. 1993) when the defendant was not tried within the time limits of the Speedy Trial Act and the court neither granted a continuance nor explained the reasoning "that would have motivated a conclusion that a continuance would serve the ends of Justice" the indictments were dismissed.

U.S. v. Jordan, 912 F.2d 563 (4th Cir. 1990); The Speedy Trial Act thus requires that a "Ends of Justice" Continuance be specifically limited in time and that the findings "Supported by the record" in open court to justify each "ends of Justice" Continuance could exempt the entire case from the requirements of the speedy trial altogether, and open the door for wholly unnecessary delays in contravention of the Act's purpose.

U.S. v. Mauro, 436 U.S. 340, 98 S.Ct. 1434, 56 L.Ed. 2d 329 (1978); the Government is bound by the IADA when it activates its provisions by filing a detainer against a prisoner and then obtains his custody by means of a Writ of Habeas Corpus Ad Prosequendum. Therefore, the Indictments were properly dismissed because the government failed and violated portions of the IADA by not trying the individual within 180 days of his arrival in open court.

State v. Holbrook, 274 S.L. 4, 260 S.E. 2d 181 (1979)

- (80) Petitioner was sent back to the Federal Authorities March 15, 2005
 (81) Petitioner Reports his violated IADA to the Federal Authorities upon return.
 - Please take Judicial Notice to the Following Exhibits -
 The petitioner is still under the Federal Authorities as of September 22, 2011.

Trial Counsel was also Ineffective for failing to preserve her clients Federal IADA Contract on Record for Appellate Review.

- DIRECT APPEAL / INEFFECTIVE ASSISTANCE -

DA -GS-02- 1333

Trial Counsel was ineffective for failing to research her clients prior conviction to stop the State Unlawfully using a prior to enhance his sentence pursuant to S.C. Code Ann. § 17-25-45(c) Recidivist Statute. And failed to subject prosecution to a meaningful adversarial challenge. Davis v. Alaska, 415 U.S. 308 (1974); - Prichard v. Lockhart, 990 F.2d 352 (8th Cir. 1993).

Appellate Counsel Eleanor Duffy Cleary filed the following on September 21, 2006 "The Trial Judge erred by sentencing appellant to life without the possibility of parole where his prior conviction from Georgia for Aggravated Child Molestation was not for an offense that would be classified as a most serious offense in South Carolina (See Anders Brief)"

But because it was not preserved for Appellate Review the petitioner lost his Appeal pursuant to Ineffective Assistance of Counsel. Strickland Supra.

The petitioner filed a Pro-Se Brief on November 13, 2006 containing the following issues (1) Prosecutorial Misconduct; using unfair Prosecutorial Tactics; making Bias Remarks; Perjury of State Witnesses; Medical Experts Bolstering the Credibility of the alleged Victim; Violated IADDA contract; Unlawful Life without parole Sentence But because of Hybrid Representation his issues were not reviewed: Also take Judicial notice to the Ruling: Petitioner's Appeal was not Affirmed: It was dismissed because the issues were not raised at trial, Ineffective Assistance of Counsel. Attorney George Bush; Vindicta

- POST CONVICTION RELIEF / TRIAL COUNSEL PERJURY -

Petitioner filed his PCR on April 18, 2008 with a Pro-Se Brief Attached Issues Raised as follows: Subject Matter Jurisdiction; Violated Federal IADDA Contract; Unlawful Sentence Enhancement; Constitutional Due Process; Ineffective Assistance of Counsel; Prosecutorial Misconduct; using unfair Prosecutorial Tactics; George Bush; Vindicta; Perjury of State Witnesses; Professional Medical Experts Bolstering States Case; Abuse of Discretion of Facts and law.

- PETITIONERS PCR DATED FEBRUARY 2, 2009 -

Under Oath, S.C. Code Ann. § 16-9-10 (A) (1): It is unlawful for a person to wilfully give false or misleading, or incomplete testimony in any Court of Record, Judicial, administrative, or regulatory proceedings in this State.

(A)(2): It is unlawful for a person to willfully give false or misleading or incomplete information on a document, record, report, or form required by law of this state. This is a Felony "Collins v. Doe, 343 S.C. 119, 124, 539 S.E.2d 62, 64 (S.C. Ct. App. 2000); Cruze v. Cruze, 70 S.E.2d 727 (Ga. App. Ct. 1952); State v. Stanley; S.C. Ct. App. No. 4007 (2005)

At petitioner's PCR Transcripts enclosed regarding prior conviction PCR TR. pg. 14 at 19-25 and pg. 15 at 1-10 Georgia's Sodomy is in fact different from South Carolina Sodomy pursuant to Trial Counsel.

Bue at 11-14 S.C. Attorney General Ms. Williams lied to the Court and trial Counsel did as well.

PCR TR. pg. 17 at 3-6 Trial Counsel did not research prior conviction.

Please take Judicial Notice to 13-19 "Trial Counsel reveals her not researching prior conviction" I would find it hard to believe... however, the indictment did not say / mention anything specifically about the presence or absence of clothing "Materially proving that Trial Counsel prejudiced her own client with her own personal assumption proving she did not research prior conviction."

PCR TR. pg. 15 at 11-13 The Court asked "Isn't that exactly what the appellate brief was written on the Court of Appeals who ever did it and at 14 Asst. Attorney General Stated Yes and at 18 Trial Counsel Stated Yes Perjury."

Not so. If the PCR Judge would have read the brief he would have seen that because of Trial Counsel's ineffectiveness that issue was not preserved for Appellate review. Prejudice Presumed.

- PCR FEDERAL IADA CONTRACT PERJURY -

Trial Counsel not only became a friend of the State by filing a Joint motion on behalf of the State on his federal IADA Continuance.

PCR TR. pg. 13 at 5-10 petitioner wrote to trial Counsel December 25, 2009 to dismiss charges pursuant to Federal IADA.

PCR TR. pg. 13 at 25 Trial Counsel told the Court that petitioner gave her permission to file a continuance "clearly shows Counsel lied".

August 6, 2009 petitioner wrote trial Counsel up on Ineffective Assistance of Trial Counsel see Kelly P. Brown 09-DE-L-0877

DA -GS-02- 1333

October 14, 2005 Trial Counsel told office of Disciplinary Counsel that she did not get petitioner's consent in writing. In retrospect, "I should have done this in order to protect my self against false allegations." Otherwise, I understand that it's my word against his.

But pursuant to the Newly Discovered package dated October 12, 2011 petitioner has material facts to prove Counsel lied.

Please take Judicial Notice to this Continuance filed by Counsel

This matter comes before the Court on the Combined motions of the defendant, by and through his Attorney Kelly P. Brown, and the State for an Order continuing this matter pursuant to the Interstate Agreement of Detainers.

One the defendant never gave trial Counsel consent to file anything to Legally Kill his IADA.

Two If the State was prepared to try this case 'why are they part of a combined motion.

See #4 The Defendant, his attorney, and the State are all in agreement that this matter should be continued for good Cause at this time as the attorney for the defendant does not feel that she had adequate time to prepare a defense on these charges, and the State was prepared to try this case during the October term of Court.

Please take Judicial Notice to the date October 29, 2004.

Supported by material facts, petitioner will show this is Unconstitutional and perjury according to S.C. Code Ann. § 16-9-10 (A)(2).

August 3, 2004 Trial Counsel sent petitioner an official letter head dated above that his case has been indicted for General Sessions.

The October Term of Court consists of the 18th through the 29th.

IADA PROSECUTION DEAD LINE November 11, 2004

Agreement on Detainers Form U1 Pickup August 31, 2004 Trial October 18, 2004

Petitioner was picked up September 1, 2004 and Tried January 31 - Feb. 2, 2005

Prosecutors Certification Scheduled for Trial October 18, 2004

Pursuant to the United States Constitution and Federal and State law there is NO record to support this continuance also If the State was prepared to try this case in the October term of Court. "Why did Trial Counsel file a Continuance on the last day of the October term of Court.

Also please take Judicial Notice to the File date Record clearly shows that this Continuance sat on the Clerk's desk for Ten whole days before becoming Legal. Three days later the ZADA Expired

Evidence clearly shows that trial Counsel became a friend to the State and filed an Unconstitutional and Illegal Continuance in clear violation of Federal law and petitioners Sixth and Fourteenth Amendments to the United States Constitution.

- WRIT OF CERTIORARI / PRIOR CONVICTION -

Appellate Counsel Wanda H. Carter filed an Johnson petition on December 2, 2009 stating: Trial Counsel erred in failing to object to petitioners LWOP Sentence under 17-25-45 because the prior conviction used to enhance Sentencing did not qualify as a most serious offense in light of South Carolina Criminal Sexual Conduct Statute.

Because of Trial Counsel error in failing to preserve the issue for appellate review violated due process at sentencing under the Sixth and Fourteenth Amendments to the United States Constitution and article 1 §14 of the South Carolina State Constitution.

But again pursuant to State v. Rice 375 S.C. 302, 652 S.E.2d 409 - (Ct. App. 2007) As a rule, unless an objection is made at the time the evidence is offered up and a final ruling is made, the issue is not preserved for review.

December 29, 2004, petitioner filed a Pro-se Brief, because of Hybrid Representation his Brief was not heard.

- TRIAL COUNSEL RULE 5 DISCOVERY VIOLATIONS -
NEWLY DISCOVERED EVIDENCE RULE 29(b)

December 6, 2005 petitioner wrote to the State bar because trial Counsel would not supply him of his complete discovery.

August 13, 2006 petitioner wrote to trial Counsel again.

May 1, 2006 petitioner wrote to the Honorable Clerk of Court trying to obtain Discovery.

November 14, 2005 Requesting Rule 5 discovery to Clerk of Court.

September 16, 2009 No Discovery from Clerk of Court.

DA -GS-02- 1222

August 23, 2011 Wrote to Honorable Clerk of Court researching trial Counsel's Trial Court Experience.

September 29, 2011 Freedom of Information Act Request for Trial Counsel's Trial Court Experience

March 8, 2010 wrote to the ARC requesting records of Kristine Brown alleged victim "Returned to sender"

March 8, 2010 wrote to the Aiken Regional Medical Center requesting DNA and medical files of alleged victim Ineff. Asst. of Counsel "Failure to obtain" Refused.

September 7, 2011 Printout Justia.Com Trial Counsel is a Products Liability Attorney. As a Practice Area.

August 29, 2011 Filed Freedom of Information Request to trial Counsel.

September 23, 2011 the paralegal requested petitioners file.

October 6, 2011 wrote to Ms. Wallis Alves pursuant to Freedom of Information Request.

October 7, 2011 Reply from Aiken Barnwell Mental Health. The petitioner can show alleged victim had a Mental Health Background. Trial Counsel failed to obtain this vital information to rebut Doctor Benedetto's testimony.

October 7, 2011 Trial Counsel refused to supply her client with the discovery request dated August 29, 2011.

October 12, 2011 Petitioner received a Rule 5 Discovery package from Trial Counsel.

PLEA Agreement Offer dated October 7, 2004 Expires October 18, 2004

PLEA Agreement Offer dated January 11, 2005 Expires January 21, 2005

LIFE W/out Parole §17-25-45(9) January 10, 2005 Prior Conviction

Aiken Standard News Paper Printout January 28, 2005

"Brenda Brisbin Sexual Crimes Coordinator"

Aiken Standard News Paper Printout February 2, 2005 "last day of Trial"

This clipping clearly shows that Linda Browns testimony cost the petitioner her life. In opening statements, Chandler painted a grim picture; repeated molestation of a young girl in a small-knit community; separation of her her parents; mothers present during several encounters; your mother's involvement; victim's mother lying to police and DSS; I just want this nightmare to be over. Extreme prejudice and unconstitutional Giglio v. U.S. 405 U.S. 150, 92 S.Ct. 763, 31 LEd. 2d 104 (1972); U.S. v. Bagley, 473 U.S. 667, 105 S.Ct. - 3375, 87 LEd. 2d 481 (1985);

October 17, 2011, filed against trial Counsel regarding Trial Court experience to the South Carolina Court Administration.

October 13, 2011 Ms. Wallis Alves sent petitioner trial Counsel's Employment Resume'

Trial Court Ineffectiveness pursuant to Strickland Supra, and Cronic Supra

(1) May 1995 to Present "A Law Clerk. Legal Research, prepare Discovery Requests, Review Appeal Briefs and records on appeal, prepare of depositions Summaries, Maintenance of Law Library, perform other tasks.

"Conflict of Interest trial Counsel works for the Direct Appeals Court therefore she knows what not to object to to preserve it for appellate review."

(2) 1994 to May 1995 Office Runner

(3) August 1990 to May 1994 Student Services Librarian Assistant at a School.

Evidence clearly shows trial Counsel was not experienced to bring petitioners case to bar in a Jury Trial regarding a Serious Crime in which Cost him his life.

October 18, 2011 another Request to Ms. Wallis Alves

October 31, 2011 Statement from Jackie Blackwood who knew Mike Williams a States Witness RoA pg. 88-99 "Critical"

November 7, 2011 petitioner wrote to the Aiken County Sheriff's office and clerk of Court during a research project to see if Linda Brown ever been charged for Sexual Assault on her daughter.

November 22, 2011 the Aiken County Sheriff's Office states that no one else has been charged.

- CONCLUSION OF FACTS -

Pursuant to Federal IADN, the petitioner is protected by the Color of Federal law and Jurisdiction Cook v. Wainwright, 141 F.3d 322 (7th Cir. 1998) it is well established and settled that Subject matter Jurisdiction is to be determined as of the time when Jurisdiction is invoked: later.

developments such as a decrease in the amount recoverable does not remove Federal Jurisdiction once it has been established see: e.g., Grinnell Mut. Reinsurance Co. v. Shierk, 121 F.3d 1114, 1116 (7th Cir. 1997)

Also pursuant to Brown v. Wainwright, 785 F.2d 1457 (11th Cir. 1986); the District Court erred in requiring Brown to demonstrate that correction of false testimony "See Linda Brown" probably would have resulted in a acquittal. Phillips had announced such standards for the situation when the prosecutor failed to disclose purely knowing introduction of that testimony in argument to the jury.

The Appropriate Standard is that of Giglio and Bagley, brought forward in our en banc decision in McCleskey v. Kemp, 753 F.2d 877, 885 (11th Cir. 1985); en banc "see U.S. v. Phillips, 664 F.2d 971 (5th Cir. 1981); Giglio v. U.S. 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1972); U.S. v. Bagley 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed. 2d 481 (1985).

Also pursuant to Demarco v. U.S., 928 F.2d 1074 (11th Cir. 1991) A conviction must be overturned which rests in part upon the knowing of false testimony "or to use" if there is any reasonable likelihood that the false testimony could have effected the Jury and their Judgement see U.S. v. Agurs, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed. 2d 342 (1976).

Solicitor Chandler is in violation of Prosecutorial Misconduct pursuant to U.S. v. Levy-Cordero, 67 F.3d 1002 (1st Cir. 1995) where we will reverse a conviction on the grounds of a prosecutors improper jury argument. However, only if the prosecutors remarks were both inappropriate and harmful.

U.S. v. Thomas, 987 F.2d 1248 (7th Cir. 1993) the Governments knowing of use of perjured testimony at trial violates due process when the perjury could have deceived the jury in its unjustly convicting defendant, White v. Regan, 324 U.S. 760, 89 L.Ed. 2d 1348, 65 S.Ct. 978 (1945); A conviction secured by the use of perjured testimony known to be such by the prosecuting attorney is a denial of due process.

Giglio v. U.S. 405 U.S. 150, 31 L.Ed. 2d 104, 92 S.Ct. 763 (1972) The Supreme Court reversed and remanded petitioners case for a New Trial after evidence was newly discovered that the Government failed to disclose a promise of leniency made to it's key witness to the jury in return for witnesses testimony, , ,

Pursuant to Material Facts and Case law petitioner as a pro-se layman has done his best to prove Ineffective Assistance of Trial Counsel and Prosecutorial Misconduct.

Based on the foregoing, this Motion for a New Trial pursuant to Rule 29(b) S.C. R. Crim. P. After-Discovered Evidence be Granted and Remand for a New Trial with appointed Counsel.

Respectfully Submitted
~~Noel E. Gray Jr.~~ #307590
 Noel E. Gray Jr.
 Murray 212 B
 Broad River Comm. Inst.
 4460 Broad River Rd.
 Columbia, S.C.

29210

The Petitioner respectfully moves this Honorable Court to take Judicial Notice to the PCR Transcripts page 13 at 16 Trial Counsel had petitioners case since February 17, 2004 PCR TR pg. 12 at 22-23, but she only conferred with him only One time October 13, 2004, clearly shows Ineffectiveness.

The petitioner sees her again January 31, 2005 at Trial. With no witnesses. See George Bush of Augusta, Ga.

The petitioner also contends that he lost his whole State Court proceedings and Federal Habeas Corpus because of Trial Counsel Ineffectiveness.

Failure to preserve vital and Constitutional Issues for Appeal citing: Strickland, Supra and Cronic Supra, and State v. Rice, 375 S.C. 302, 652 S.E.2d-409 (Ct. App. 2007). May God Bless this Honorable Court and State.

Columbia, S.C.

September , 2012

STATE OF SOUTH CAROLINA
IN THE COURT OF GENERAL SESSIONS

SEP 17 2012

RULE 29(b) MOTION
FOR NEW TRIAL

THE STATE,

RESPONDENT,

V.

Noel E Gray Jr. #307590

PETITIONER,

CERTIFICATE OF SERVICE

The Pro Se petitioner undersigned hereby certifies that a true copy of the Motion For A NEW TRIAL pursuant to S.C. R. Crim. P. Rule 29(b) S.C. Code Ann. § 17-23-110 After Discovered Evidence with material facts has been placed in the United States Postal Service with pre-paid postage affixed mailed to the Honorable Clerk of Courts Office this _____ day of September, 2012

Noel E. Gray Jr. #307590
Noel E. Gray Jr.
Murray #212-B
Broad River Corr. Inst.
4660 Broad River Rd.
Columbia, S.C.
29210

SUBSCRIBED AND SWORN to before me

this 17th day of September, 2012

Susan H. Frye 45

Notary Public for South Carolina

My commission expires: _____

My Commission Expires
March 5, 2018

65-02-1335
04

STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS

SEP 17 2012

NOEL E. GRAY, JR #307590)
Pro-se Defendant)

VS.)

STATE OF SOUTH CAROLINA)
Respondent.)

F 718991 - 2004 - GS-02 - 01333

F 718990 - 2004 - GS-02 - 01334

MOTION FOR APPOINTMENT
OF COUNSEL

AND TO PROCEED IN

forma Pauperis

2004-GS-02-1333/1334

Pursuant to S.C. Code Ann. § 56-1-365 the pro-se defendant
Motions to this Honorable Court to Appoint Counsel because of the following:

1. defendant is unable to afford counsel, therefore he requests to move
/ leave to proceed in forma pauperis.

2. defendant's imprisonment will greatly limit his ability to litigate.
The issues involved in this case are complex, and will require significant
research and investigation. Defendant has limited access to the law library
and limited knowledge of the law.

3. A trial in this case will likely involve conflicting testimony, and
counsel would better enable the defendant to present evidence and cross
examine witnesses.

4. the defendant is indigent

Wherefore, defendants request that the Court appoint a Public
Defender, A member of the South Carolina Bar as Counsel in this case,

this 17th of September, 2012

Noel E. Gray Jr. #307590
Noel E. Gray Jr.
4460 Broad River Rd.
Columbia, S.C. 29210

Copies - Judge Early
Mr. Gray

FILED

September 24 2012

L. Adard
Clerk of Court
Sheriff's Office

04 GS-02-1333



State of South Carolina
The Circuit Court of the Second Judicial Circuit

Doyet A. Early, III
Judge

Post Office Box 90
Bamberg, SC 29003
Phone: (803) 245-4004
Fax: (803) 245-2983
dearlyj@sccourts.org

November 30, 2012

The Honorable Liz Godard
PO Box 583
109 Park Avenue
Aiken, SC 29802

F718991 - 2004-GS-02-01333
F718990 - 2004-GS-02-01334

RE: Form Order for *Noel Gray v. State of South Carolina*

Dear Ms. Godard:

Please find enclosed a Form Order for the case *Noel Gray v. State of South Carolina* (2004-GS-02-1333/1334). The defendant's Motion for a New Trial has been denied and the Motion for Appointment of Counsel has been denied. Please file with the court and make copies available to all parties.

Sincerely,

Adam C. Ness, Esq.
Law Clerk for Judge Doyet Early, III

Copies: Mr. Gray
Solicitor
P. Defendants

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this
20 day of Dec 2012
Liz Godard
C.C.P. & G.S. Aiken County, S.C.
Sherry L. Langley, Jr.
Deputy Clerk

FILED December 4 2012
Liz Godard
C.C.P. & G.S.
Sherry L. Langley, Jr.
Deputy Clerk

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF AIKEN

Case No.: 2004-GS-02-1333/1334

Plaintiff

Defendant

Noel Gray

Versus

State of South Carolina

CHECK ONE:

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and the verdict has been rendered.
- ☒ DECISION BY COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. nonsuit)
☐ Rule 43(k), SCRCP (Settled); ☐ Other -
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding Arbitration,
 Subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☒ Statement of Judgment by Court

After careful consideration, Petitioner's Motion for a New Trial and Motion for Appointment of Counsel are respectfully DENIED.

Dated at Bamberg, South Carolina, Date Nov 30, 2012 Judge T. P. E. Gray

This judgment was entered on the _____ Day of _____, 20____, and a copy mailed this _____ Day of _____, 20____, to attorneys of record or to parties as follows:

Attorney(s) for Plaintiff

Attorney(s) for Defendant

Noel Gray
 SCDC # 307590
 Broad River Correctional Inst.
 4460 Broad River Road
 Columbia, SC 29211

STATE OF SOUTH CAROLINA
 COUNTY OF AIKEN
 I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this 20 day of Dec, 2012.
Liz Godard
 C.C.P. & G.S., Aiken County, S.C.
Sherry Langley
 Deputy Clerk

FILED December 4 2012
Liz Godard
 C.C.P. & G.S.
Sherry Langley
 Deputy Clerk

NOTICE OF INTENT TO APPEAL
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
FROM AIKEN COUNTY
THE HONORABLE D.A. EARLY, III

DEC. 05 2012

DECEMBER 4, 2012
INDICTMENT # 2004-GS-02-1333-1334

THE STATE OF SOUTH CAROLINA -- Respondent

VS.

RECEIVED

DEC 07 2012

SC Court of Appeals

Noel E. Gray, Jr. # 307590 -- Appellant

NOTICE OF INTENT TO APPEAL

The Appellant filed a Rule 29(b) Motion For New Trial Based on Newly / After Discovered Evidence according to the Rule 29(b) Rules of Criminal Procedures of South Carolina, on September 17, 2012.

The Newly Discovered Evidence was with in the One(1) year Statute of Limitation, and met all the elements to support a New Trial Based on Ineffective Assistance of Trial Counsel.

November 30, 2012 the Honorable D.A. Early, III denied both Motion's for New Trial and Appointment of Counsel.

The Appellant Appeals his Unconstitutional Denial of Due Process, and Request Appointment of Appellate Counsel.

Noel E. Gray Jr. #307590
Noel E. Gray Jr.
Pro-Se Appellant

Notice of Intent To Appeal
 State of South Carolina
 vs.

Noel E. Gray Jr. #307590
 2004-GS-02-1333-1334.

RECEIVED
 DEC 07 2012

SC Court of Appeals

CERTIFICATE OF SERVICE

I Noel Gray do hereby certify that I have this day served the Original of Appellate's Notice of Appeal upon the South Carolina Court of Appeals and Copies of Appellant's Notice of Intent to Appeal to the Clerk of Court of Aiken County, and to Mr. Strom Thurmond Jr. Solicitor, Second Judicial Circuit, by placing same in the United States Mail properly addressed and with correct postage affixed thereto:

- 1) South Carolina Court of Appeals
 P.O. Box 11629
 Columbia, S.C. 29211
- 2) South Carolina Commission of Appellate Defense
 Suite 306
 1205 Pendleton St.
 Columbia, S.C. 29202
- 3) Clerk of Court
 Aiken County Judicial Circuit
 P.O. Box 583
 Aiken, S.C. 29802
- 4) Mr. Strom Thurmond Jr. Solicitor
 Second Judicial Circuit
 P.O. Box 3368
 Aiken, S.C. 29802

Dated this 5th day of February, 2012

Noel E. Gray Jr. #307590
 Noel E. Gray Jr.
 Pro-Se Appellant
 B.C.I. Murray 212-B
 4460 Broad River Rd.
 Columbia, S.C. 29210

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

Jackson V. Gregory, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NOEL GRAY,

APPELLANT

COURT

RECORD ON APPEAL

ELEANOR DUFFY CLEARY
Appellate DefenderSouth Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
[REDACTED]

Attorney for Appellant

HENRY DARGAN MCMASTER
Attorney GeneralJOHN W. MCINTOSH
Chief Deputy Attorney GeneralSALLEY W. ELLIOTT
Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
[REDACTED]BARBARA R. MORGAN
Solicitor, Second Judicial Circuit
Post Office Box 3368
Aiken, SC 29802
[REDACTED]

Attorneys for Respondent

04 GS-02-1333

Packet #2

Copy
FILED September 24 2002Leif Godard
C.C.C.P. & G.S.Cheryl G. Westall (NW)
Deputy Clerk

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF AIKEN)

IN THE COURT
OF GENERAL SESSIONS

3
4 INDICTMENT NO. 2004-GS-02-1333
2004-GS-02-1334

5 State of South Carolina,)
6 Plaintiff)

7 VS.)
8)

TRANSCRIPT OF RECORD

9 Noel Eugene Gray, Jr.,)
10 Defendant)

11
12 January 31- February 2, 2005
13 Aiken, South Carolina

14
15 B E F O R E:

16 THE HONORABLE JACKSON V. GREGORY, JUDGE AND A JURY.
17

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

19 Everett K. Chandler, Assistant Solicitor
20 Brenda Brisbin, Assistant Solicitor
2nd Judicial Circuit

21 Kelly P. Brown, Esquire
22 Attorney for the Defendant
23

24 Brenda W. Sigwald, Circuit Court
25 P.O. Box 206, Jackson, South Carolina 29831

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1 can't comfortably hear a witness' testimony or an
2 attorney's questions, please let me know and I will make
3 sure that you can comfortably see and hear everything
4 that's being presented to you. During the trial, if you
5 wish to, there are Co-Cola, and coffee and water and so
6 forth in the jury room, if you wish to bring in something
7 to sip on during the trial, feel free to do that also. And
8 with that, we'll have the opening statements of the
9 attorneys and then proceed into the testimony and the
10 evidence portion of the trial.

11 **OPENING STATEMENTS**

12 MR. CHANDLER: May it please the court?

13 THE COURT: Mr. Chandler.

14 MR. CHANDLER: Members of the jury panel, my
15 name is Everett Chandler and I'm an assistant solicitor
16 here, prosecuting for the State as well as Ms. Brenda
17 Brisbin, who is sitting to my right, she is also an
18 assistant solicitor with Aiken County. And your duty here
19 today is to prosecute Noel Eugene Gray, Jr. for the crime
20 of criminal sexual conduct, with a minor in the
21 second-degree.

22 In a small community in Aiken County, on or
23 about July to November of 2001, and also from August to
24 September, 2002, our victim in this case, Ms. Minor
25 Minor , an easy target, just dealing with the break up of

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04

1 her parents or the separation of her parents, moved with
2 her mother with a close family friend. And also around
3 that time, Noel Eugene Gray befriended her mother, became
4 her boyfriend and moved in with them as well.

5 And during the period of that time, Noel Eugene
6 Gray began to have inappropriate conduct with Minor

7 Minor In fact, he was having sexual intercourse with her
8 not only at that location, but then when Minor and her
9 mother were able to afford a mobile home, which was also in
10 that neighborhood, they moved there and Noel Eugene Gray
11 continued that inappropriate relationship with Minor

12 Minor and on numerous occasions, they would have sexual
13 intercourse.

14 As we said, our job today is to prosecute Noel
15 Eugene Gray, Jr. for the crime of criminal sexual conduct
16 with a minor. And all the indictments, which the judge
17 mentioned earlier, it indicates that there's a sexual
18 battery, sexual intercourse with a person under the age of
19 16. And in this case specifically, it will be a person
20 between the ages of 11 and 14. The evidence will show, as
21 the State will bring the mother of Minor, the

22 evidence will show that, in fact, Linda Brown will let you
23 know that she did, in fact, befriend Noel Eugene Gray, Jr.
24 And that she, in fact, not only knew about and witnessed
25 the sexual intercourse, but at sometimes participated in it

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1 as well.

2 The evidence will also show, we'll have to
3 bring Minor ; she's going to do the most difficult
4 thing that anybody could do, and that is to talk about
5 details, gory details of something this bad that happened.
6 We're going to ask you to travel with us because we have to
7 tell the sequence of events. We have to tell you what
8 happened in order for you to find him guilty.

9 The State will also bring Mike Williams who is
10 a friend of the family, the person they lived with first,
11 who witnessed several -- certain conduct between them that
12 was consistent with the relationship that they had ongoing;
13 and also with David Blevins who investigated it initially.

14 And when David Blevins, the investigator for
15 the Aiken County Sheriff's Office investigated it, first
16 they denied it. He talked to Minor and he talked to her
17 mother and they said, "No, he didn't do it, he's like a
18 father to us."

19 And later on when he investigated it the second
20 time when Junior, or Noel Eugene Gray, Jr. was gone, the
21 coast was clear, they admitted it. They said, yeah, he did
22 those things. You're also going to hear from experts that
23 after (Minor finally came forward we sent her to the
24 doctor; and we'll have a forensic scientist and we'll have
25 a doctor and they will explain their findings to you and

1 explain how this fits in to what happened in this case and
2 to the conduct of Noel Eugene Gray.

3 The reason why you're here today is because of
4 the actions of Noel Eugene Gray Jr. And throughout the
5 course of this trial, the State will ask you to do just a
6 few things. The first thing is to listen to all evidence
7 that's presented in this case. This case is important to
8 the State of South Carolina, but it's also important to the
9 defendant. In addition to that, we ask that you use your
10 every day experience.

11 Some people call it common sense, but let's say
12 every day experience in listening to what's going to
13 actually come from this jury stand -- from this stand. You
14 bring that -- you were chosen by both the State and also
15 the defense because we believe that you can do that. Use
16 your every day experiences and we want you to listen to
17 Linda Brown as she tells you some very difficult things;
18 ~~Christine~~ Minor as she tells you some very difficult
19 things; and Mike Williams, a friend of the family who
20 brought Noel Eugene Gray to his home and betrayed their
21 trust.

22 And you'll hear from the investigator who
23 worked hard to bring this case together. But as you use
24 your every day experience, look at what the State has to
25 prove, sexual battery with a person under the age of 16 and

EXHIBIT #

Q#4

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Linda Brown - Direct Examination by Mr. Chandler

1 Q Okay. And is that in Aiken County?

2 A Yes, sir.

3 Q Okay. During that time, please explain your
4 relationship with Noel Gray.

5 A We started out as friends and then we became more than
6 friends.

7 Q More than friends? When did -- or about what time did
8 Noel move in with you there?

9 A Let's see, a week or 2 weeks.

10 Q 2 weeks?

11 A Within that area.

12 Q So he was living with you around July of 2001 to
13 November 2001?

14 A (Witness nodded head.)

15 THE COURT: Excuse me, make a verbal response.

16 The court reporter can't take down a nod.

17 By Mr. Everett:

18 Q Yes or no?

19 A Yes.

20 Q All right. Based on your observations, did you ever
21 observe Junior having any inappropriate contact with

22 your daughter?

23 A Yes.

24 Q Could you please describe or give us details of the
25 first encounter that you can remember?

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Linda Brown - Direct Examination by Mr. Chandler

1 A That I can remember?

2 Q Yes.

3 A I know he would hug her and I'd seen him kiss her on
4 the lips, but I didn't see -- as I explained to you any
5 tongue or anything like that involved. We slept in the
6 tent in the garage at Mike's house.

7 Q We being? Who is we?

8 A Me and Eugene. And there was several occasions where
9 she would come out to the tent. I would call her out
10 of the tent. They would claim to be talking. And, you
11 know -- and then there were several times that she
12 would come out to the tent and he would want to have
13 sexual intercourse with her.

14 Q And did you ever witness him having sexual intercourse
15 with Minor 1?

16 A Yes, I did.

17 Q Please tell us what happened. What happened?

18 A Will you give me a second?

19 Q Yes, ma'am.

• (20) A He would have sexual intercourse with my daughter and
21 he would use me as like a feel partner, you know as

22 feeling my breasts and whatnot.

23 Q So he would feel on your breasts while he was
24 penetrating your daughter?

• 25 A Yes, sir.

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Linda Brown - Cross-Examination by Ms. Brown

1 Q You were scared? You were scared then?

2 A I was scared through the whole thing.

3 Q What were you scared of?

4 A Scared of him, scared of what he would do.

5 Q Are you scared of being prosecuted yourself?

6 A Yes.

7 Q Is that why you lied to the DSS investigator in the
8 this case back in November of last year?

9 A No.

10 Q You didn't lie because you were scared?

11 A I was scared.

12 Q Well why did you lie to the DSS investigator?

13 A Because I was scared of what would happen.

14 Q So you will lie when you're scared about what will
15 happen, is that correct?

16 A I was scared for my daughter's life, I was scared for
17 my life.

18 Q You were scared for your daughter's life in November of
19 2004, when you lied to the DSS investigator about your
20 having observed this and about your having had contact
21 with Minor ?

22 A Yes, I was scared.

23 Q Okay. Who all was living in that house when it was --
24 back in 2001 when you and Mike -- when you and Junior
25 and Minor were living in the house with Mike and

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Linda Brown - Cross-Examination by Ms. Brown

- 1 Becky Williams, who else was living there?
- 2 A Their son.
- 3 Q Their son?
- 4 A (Witness nodded head.)
- 5 Q What's his name?
- 6 A Michael Williams, Jr.
- 7 Q And how old was he at that time?
- 8 A 14.
- 9 Q Did ya'll have any pets?
- 10 A They had several pets.
- 11 Q What did they have?
- 12 A They have Chihuahuas.
- 13 Q How many Chihuahuas did they have?
- 14 A Nine.
- 15 Q Nine? Do they breed them?
- 16 A Yeah.
- 17 Q Okay.
- 18 A In fact, they have babies on the way now.
- 19 Q Nothing better than a puppy, is there? So there were
- 20 about nine of them in the house back in 2001, is that
- 21 right?
- 22 A Yes, ma'am.
- 23 Q Now, are we talking -- this was a large residence or a
- 24 small residence? Kind of help me understand.
- 25 A It's a log cabin.

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04

Linda Brown - Cross-Examination by Ms. Brown

1 what was going on, that made you scared?

2 A I was scared of a lot of things.

3 Q What all were you scared of?

4 A I was scared of what would happen to my kids. I was
5 scared of what would happen to me and I was still
6 scared of Noel.

7 Q Okay. So even though he hasn't been with you for 2
8 years at that point, correct?

9 A Correct.

10 Q Haven't had any contact from him, correct?

11 A Correct.

12 Q Had no idea where he was?

13 A Correct.

14 Q Your primary reason for lying to the State was that you
15 were scared of him?

16 A I was scared of a lot of things.

17 Q You were scared of a lot of things? Are you scared of
18 going to jail?

19 A Yes, ma'am.

20 Q You know that that's a possibility?

21 A Yes, ma'am.

22 Q But you're hopeful that if you help the State in
23 prosecuting Mr. Gray that you won't go to jail, isn't
24 that right?

25 A I'm praying so. I'm hoping and praying that I won't.

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Linda Brown - Cross-Examination by Ms. Brown

1 Q You're hoping and praying that your testimony here
2 today will keep you out of the jail, is that right?

3 A I hope it will help.

4 Q All right.

5 A I just want this whole nightmare to be over.

6 MS. BROWN: No more questions, Your Honor.

7 MR. CHANDLER: Nothing from the State.

8 THE COURT: You may come down.

9 MR. CHANDLER: Your Honor, the State would ask
10 for a short recess.

11 THE COURT: Okay. Members of the jury, please
12 retire to the jury room, we'll take a recess at this time,
13 about a 15 minute recess. That will be about 5 after.

14 (WHEREUPON the jury left the courtroom at 10:50
15 a.m.)

16 THE BAILIFF: You want them to pick a
17 foreperson now?

18 THE COURT: Any time they want to. They don't
19 have to because we're going to be involved, but just any
20 time they want too, they can.

21 Okay. Court's in recess for about 15 minutes.

22 MR. CHANDLER: Thank you, Your Honor.

23 (WHEREUPON a short recess was observed.)

24 THE COURT: Bring the jury in, please.

25 MS. BRISBIN: Your Honor, could we have just

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04

Minor

- Direct Examination by Ms. Brisbin

79

1 Q Okay. Do you ever remember it happening when you were
2 in the bathroom but not in the shower?

3 A Huh-huh, I don't know.

4 Q No? Okay. Did anything ever happen in the kitchen in
5 Mike and Becky's house?

6 A Yes, ma'am.

7 Q What happened in the kitchen? Was it is same thing or
8 something different?

9 A Same thing.

10 Q Same thing as what?

11 A He was having sex with me.

12 Q Okay. When -- where did you live after you moved out
13 of Mike and Becky's house?

14 A On the other side of Mike's.

15 Q Was that a house or a trailer?

16 A It was a trailer.

17 Q And do you know who owned that trailer?

18 A Michelle Cusimano.

19 Q You've got to speak up.

20 A Michelle Cusimano.

21 Q Okay. And who was living in that trailer?

22 A Me and my mom and Noel.

23 Q You and your mom and Noel?

24 A Yes, ma'am.

25 Q Okay. Did anything happen when you were living in that

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Minor

- Direct Examination by Ms. Brisbin

1 trailer?

2 A Yes, ma'am.

3 Q And what part of the that trailer did it happen in?

4 A The room I was staying in.

5 Q I'm sorry I couldn't hear you.

6 A The room I was staying in.

7 Q Okay. Did you have your own room?

8 A Yes, ma'am.

9 Q Okay. And what happened in your room in that trailer?

10 A It was the same thing.

11 Q The same thing as before?

12 A Yes, ma'am.

13 Q And what do you mean by the same thing?

14 A He stuck his private part in mine.

15 Q Okay. Try to speak up. I know it's hard. Where was
16 your mom when that happened?

17 A She was in their room.

18 Q Where?

19 A Their room.

20 Q Their room?

21 A Yes, ma'am.

22 Q You mean she and Noel's room?

23 A Yes, ma'am.

24 Q And did this also happen at night or did it happen in
25 the daytime?

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04

1 A It happened at night.

2 Q And would you be under the covers when it happened?

3 A Most of the time.

4 Q Okay. Did it ever happen anywhere else in that
5 house -- in that trailer?

6 A No, ma'am.

7 Q No?

8 A Huh-huh.

9 Q Okay. Did it happen one time or more than one time in
10 the trailer?

11 A More than one time.

12 Q Did -- do you remember Investigator Blevins, from the
13 Sheriff's Department coming to speak to you at school?

14 A Yes, ma'am.

15 Q Okay. And did you tell him what Noel Gray was doing to
16 you when he came to speak to you there?

17 A No, ma'am.

18 Q Why not?

19 A Because I didn't want Junior to go to jail.

20 Q You didn't want him to go to jail? Is that what you
21 said?

22 A Yes, ma'am.

23 Q Okay. And was he still living with you at the time?

24 A Yes, ma'am.

25 Q Okay. At some point later, did you talk to

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04

(Minor

- Direct Examination by Ms. Brisbin

- 1 Investigator Blevins again?
- 2 A Yes, ma'am.
- 3 Q And where was that? Was that at school or was that at
- 4 home?
- 5 A No, that was at his office.
- 6 Q It was at his office?
- 7 A Yes, ma'am.
- 8 Q Okay. And was Junior still living with you at this
- 9 time?
- 10 A The second time?
- 11 Q Yes.
- 12 A No, ma'am.
- 13 Q Okay. Did you tell Investigator Blevins what Noel had
- 14 done to you then?
- 15 A The second time, yes, ma'am, I did.
- 16 Q Okay. Why were you able to tell him the second time?
- 17 A Because I knew Junior wasn't going to do anything to
- 18 me.
- 19 Q I couldn't hear you, I'm sorry.
- 20 A I knew Junior wasn't going to do anything to me.
- 21 Q You knew Junior couldn't do anything to you then?
- 22 A Yes, ma'am.
- 23 Q Okay. No further questions, please answer any
- 24 questions Ms. Brown has for you.
- 25 ///

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04

Minor

- Cross-Examination by Ms. Brown

CROSS-EXAMINATION

By Ms. Brown:

Q Minor, when you talked to Investigator Blevins that second time, you still didn't tell him everything that was going on, did you?

A No, ma'am.

Q You didn't tell him at this time about your mother's involvement, right?

A Yes, ma'am.

Q And, in fact, you didn't just up and tell her that this was going on, she already knew, didn't she?

A I didn't know she knew.

Q You didn't know she knew?

A No, ma'am.

Q So it's your testimony that she was not in the bed with you and Noel when he would have sex with you?

A She was in the bed.

Q She was in the bed?

A Yes, ma'am.

Q And she -- according to her testimony had participated, had touched you, is that right?

A Yes, ma'am.

Q So she did know what was going on?

A But I didn't know she did.

Q She was touching you but you didn't know she knew that

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1 he was having sex with you, is that what you're saying?

2 A Yes, ma'am.

3 Q You don't want your mother to get in trouble, right?

4 A Right.

5 Q And that's why you didn't say anything about her
6 involvement to Investigator Blevins, right?

7 A Right.

8 Q And that's why you're telling the jury right now that
9 you don't know whether or not she knew it was going on,
10 right?

11 A Yes, ma'am.

12 Q You don't want her to get in trouble? You've lied to
13 people to keep her from getting in trouble, right?

14 A Yes, ma'am.

15 Q Now, you actually were the one who originally told, I
16 guess it was Mr. Chandler, back in October of last year
17 that she was involved and knew it was happening, right?

18 A Yes, ma'am.

19 Q Did anybody else know it was going on?

20 A No, ma'am.

21 Q No one else knew?

22 A No, ma'am.

23 Q Everyone else in the house just slept through whatever
24 was going on?

25 A Yes, ma'am.

Minor

- Cross-Examination by Ms. Brown

(85)

1 Q Now, there was a period of time when Junior was out --
2 was not living with ya'll, right?

3 A Yes, ma'am.

4 Q Around November of 2001?

5 A Yes, ma'am.

6 Q Minor without saying what that is, can you tell me
7 if you recognize what I've handed you, which is marked
8 as Defense Exhibit 2 for purposes of identification?

9 (WHEREUPON the witness was reading the
10 document.)

11 By Ms. Minor :

12 Q Do you recognize that?

13 A Yes, ma'am.

14 Q Can you tell me what that is? Is it a letter that you
15 wrote?

16 A Yes, ma'am.

17 Q You wrote that letter to whom it may concern on
18 November 22, 2001, correct?

19 A Yes, ma'am.

20 Q And at that time, you said, "He has never done anything
21 bad to me or my mom," right?

22 A Yes, ma'am.

23 Q And you wrote in this letter, begging that he come home
24 to you and your mom, correct?

25 A Yes, ma'am.

1 Q You didn't write in that letter that you were scared of
2 him, did you?

3 A No, ma'am.

4 Q You didn't write in that letter that he had been doing
5 bad things to you, did you?

6 A No, ma'am.

7 Q And just so we get this time line, this was after the
8 time that ya'll had been all living at Mike and Becky's
9 house, right?

10 A Yes, ma'am.

11 Q Okay. And when Investigator Blevins originally talked
12 with you about this, you said nothing was going on,
13 didn't you?

14 A Yes, ma'am.

15 Q You were at school?

16 A Yes, ma'am.

17 Q Right?

18 A Yes, ma'am.

19 Q And he probably told you that everything was going to
20 be okay, didn't he?

21 A Yes, ma'am.

22 Q He told you that he would keep you safe?

23 A Yes, ma'am.

24 Q And he said that there had been accusations made,
25 right?

Minor

- Cross-Examination by Ms. Brown

1 A Yes, ma'am.

2 Q And you denied them, didn't you?

3 A Yes, ma'am.

4 Q You said nothing was going on, right?

5 A Yes, ma'am.

6 Q After the police came out and talked to your mother,
7 after they talked to you that day, she and Noel got in
8 a fight, didn't they?

9 A Yes, ma'am.

10 Q And he said he was leaving?

11 A Yes, ma'am.

12 Q And she didn't want him to leave, did she?

13 A No, ma'am.

14 Q And they fought about that didn't they?

15 A Yes, ma'am.

16 Q And he left?

17 A Yes, ma'am.

18 Q And it wasn't until after he left that she called
19 Investigator Blevins isn't that correct?

20 A Yes, ma'am.

21 MS. Minor : Beg the court's indulgence one

22 moment. I have no further questions, Your Honor.

23 THE COURT: Ms. Brisbin?

24 MS. BRISBIN: No redirect, Your Honor.

25 THE COURT: You may come down.

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Mike Williams - Direct Examination by Mr. Chandler

1 Call your next witness.

2 MR. CHANDLER: The State calls Mike Williams.

3 THEREUPON,

4 MIKE WILLIAMS,

5 after being duly sworn, testified as follows:

6 THE CLERK: Have a seat in the witness box.

7 State your full name for the court, spelling your last.

8 MR. WILLIAMS: Mike Williams, W-i-l-l-i-a-m-s.

9 DIRECT EXAMINATION

10 By Mr. Chandler:

11 Q Mr. Williams, Mike, where do you live?

12 A 1078 Madison Avenue.

13 Q Is that in Aiken County?

14 A It's in Aiken County, right outside New Ellenton line.

15 Q And what do you do for a living?

16 A Right now I'm disabled.

17 Q You have any job?

18 A I have a hobby of being a professional clown.

19 Q And how do you know or do you know Minor , the
20 victim in this case?

21 A I've been friends with her mother for around 24, 25
22 years.

23 Q Do you know the defendant in this case Mr. Noel Eugene
24 Gray?

25 A Yes, I do.

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Mike Williams - Cross-Examination by Ms. Brown

1 him shaving her legs, you just tell him, "Oh, you don't
2 need to be doing that, she's big enough to shave her
3 own legs"? That's all you do?

4 A I told him to get out of the bathroom.

5 Q You told him to get out of the bathroom but you didn't
6 throw him out of your house?

7 A No.

8 Q Because you're just -- what was it you said? That's
9 just the kindhearted person that you were?

10 A Yes.

11 Q You're kindhearted enough to let this man that you
12 don't know from Adam stay in the house; that you see
13 doing inappropriate things to the girl who's pretty
14 much your niece, right?

15 A Yes.

16 Q Is that right?

17 A (Witness nodded head.)

18 Q It would probably be safe to say she's like a daughter
19 to you, isn't it?

20 A Close to it.

21 Q Close to a daughter to you. And you're here telling

22 this jury that this girl, who is like a daughter to
23 you, you believed to be in danger and you didn't do
24 anything about it, did you?

25 A Well the fact is, I did do something about it.

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1 Q When?

2 A I had -- I had him investigated by law enforcement and
3 they came to my house and picked him up. That was the
4 time he was gone.

5 Q Okay. And he came back and lived with you again,
6 didn't he?

7 A Yes.

8 Q And -- I'm going to hand you what's been marked Defense
9 Exhibit 3 for identification purposes. Without telling
10 me what that is, can you tell me, do you recognize
11 that?

12 A Yes.

13 Q And this is a letter that you wrote on November 30th of
14 2001, isn't that correct?

15 A Yes.

16 Q And it's on Bobo the Clown stationary. That's your
17 business that you operate?

18 A Yes.

19 Q And it's a letter saying that you as owner and
20 operator of Bobo the Clown, have a job waiting for Noel
21 Gray Jr., as my assistant when he gets back home, isn't
22 that right?

23 A Yes.

24 Q He has been training under me for 3 months now, he'll
25 be a big asset for my company. Is that what you wrote?

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David Blevins - Cross-Examination by Ms. Brown

1 A Yes, ma'am.

2 Q And she denied that any such activity had taken place
3 between Gray and the victim, correct?

4 A Correct.

5 Q Just -- this isn't, she didn't know of anything, she
6 just outright denied it, correct?

7 A Correct.

8 Q Did you talk with anybody else at that time?

9 A No, I did not.

10 Q And so you closed your case out?

11 A Yes, ma'am.

12 Q The next contact you had, she gave you a phone call,
13 right?

14 A That's right.

15 Q About 2 weeks later?

16 A It would have been on the -- September 30th, at about
17 1:45 that afternoon.

18 Q So, counting your math, it will be better than my math,
19 is that 2 or 3 weeks later, roughly?

20 A Roughly, yes, ma'am.

21 Q Yeah. And what did she tell you?

22 A ~~She had told me that Minor~~ had disclosed to her
23 that Noel had sexually assaulted her.

24 Q And she didn't tell you that she had seen anything
25 happening, did she?

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1 A No.

2 Q She didn't tell you that anyone else had seen anything
3 happening, did she?

4 A No.

5 Q That information would have been important because you
6 would have gone on to interview witnesses at this time,
7 wouldn't you?

8 A Definitely, yes, ma'am.

9 Q Did you ever ask any of the other folks who were living
10 in that house if they had ever seen anything?

11 A No, I didn't. Based on my interview with Minor
12 her initial interview was the fact that it was always
13 just him and her alone. Either on a couch or in the
14 bedroom.

15 Q You had a chance to go out and see this house that she
16 was talking about where the initial abuse she says took
17 place, correct?

18 A Yes, I did.

19 Q And that was a pretty small residence, right?

20 A Yes.

21 Q Would it have been reasonable to believe that, given
22 the close quarters in that house that somebody might
23 have seen or heard something?

24 A It's possible.

25 Q But you didn't interview any of the people who were

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David Blevins - Cross-Examination by Ms. Brown

1 - living in that house?

2 A No.

3 Q Were you present at any other interviews that have
4 taken place with Minor 1?

5 A The only other interview that I had was -- that I had
6 scheduled for the ARC, but I never attended that one.

7 Q You did not attend that one?

8 A No, I did not.

9 Q Okay. But you did have an opportunity to attend an
10 interview with her in November of 2004, correct?

11 A That would've been with the DSS caseworker.

12 Q That's right?

13 A I started, I was there initially, but Minor felt
14 more comfortable talking with the caseworker alone. So
15 I stepped out in the hall with the SRO at the school at
16 that time.

17 Q So you were not present during that interview?

18 A Correct.

19 Q Okay. At any time, did Minor ever tell you that
20 her mother was present?

21 A She did not.

22 Q At any time?

23 A She did not tell me.

24 Q That's what I'm asking you?

25 A Right.

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1 Q At any time did she tell you that?

2 A No.

3 Q To your knowledge, did she at any time tell the
4 examiner from the ARC?

5 A I believe she made one disclosure in there that her mom
6 was in the bed on one, maybe two cases, but she never
7 woke up during the encounter. I'm trying to get to it
8 here.

9 Q Sure. I understand.

10 A Yes, she did make -- she did make a statement that the
11 mom was in there on occasions, but she would be asleep.

12 Q She stated mother did not wake up, right?

13 A Correct.

14 Q Mom never woke up and nobody ever saw, correct?

15 A Correct.

•16 Q Have you had opportunity to investigate anyone else in
17 connection with this incident?

18 A No, I have not.

19 Q You have not made any investigations of Linda Brown
20 after the allegations that she was present came out?

21 A Not at this time, no.

22 Q You have not?

23 A No.

24 Q So no other conversations have been made?

• 25 A Not at this time, no.

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1 proof goes first and then followed by the final argument by
2 the attorney for the defendant.

3 MS. BROWN: Your Honor, if I may briefly, the
4 jury has not been informed that the defense rests.

5 THE COURT: I'm sorry. The defense rested and
6 so they will not -- so we're now ready for that. So thank
7 you very much. And we're now ready.

8 Mr. Chandler?

9 **CLOSING ARGUMENTS**

10 MR. CHANDLER: May it please the court,
11 Ms. Brown members of the jury panel, Minor , a
12 minor, has a little trouble in school, ADD, has just
13 undergone some changes in her life. Her parents have split
14 up. She moves away from her home with her mother and she
15 moved into the home with her Uncle Mike. And around or
16 about that time, her mom meets a guy, our defendant, today,
17 Mr. Noel Eugene Gray, Jr., they call Junior. And then the
18 mom moves Junior into the home or Junior moves into the
19 home with the mom and also Minor and it's there at this
20 time Junior begins to have inappropriate sexual conduct
21 with Minor

22 In fact, the evidence that has been presented
23 today is that we know that Junior had sex with her for the
24 first time in the tent, in the bedroom when the mother was
25 present. And as her mom says, she would watch Junior

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1 sexually -- have sexual intercourse with her daughter while
2 he was groping her mother. And also in that same home, we
3 know that he had sex with her in other places. During that
4 time, the sexual intercourse that Junior had with Minor
5 according to Minor , when he penetrated her, he put his
6 private part in her private part and there would be
7 sometimes when something would come out, sometimes inside
8 of her and sometimes on her stomach.

9 We apologize for the photographic nature of
10 this case that you had to hear. We apologize for the
11 graphic nature of this argument that I'm going to have to
12 make. But as I said at the beginning of this trial, the
13 reason why you're here today is because of the actions of
14 Noel Eugene Gray, Jr. You know there is a tendency,
15 especially in a case like this, when you may be so focused
16 on the fact that the one person that should have protected
17 Minor didn't do it. Her mother served her daughter up
18 to her boyfriend, Noel Eugene Gray Jr.

19 And what we know is that at the time he was 31
20 and 32 years old and when they were at Mike and Becky's
21 house from August 2001 to September -- I mean from July
22 2001 to November of 2001, that they had sex on numerous
23 occasions. And what you also know from the facts that were
24 laid out was that it was at that point while Junior was
25 there that there was an anonymous phone call and that

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1 someone had witnessed that inappropriate contact. Someone
2 who suspected that Junior was having sex with Minor
3 called it in. And Investigator Blevins checked on that
4 call and he spoke with the mother and the mother denied it.

5 But you all know why the mother denied it now.
6 Because she was participating. It's a poor excuse for a
7 mother who's participating in sexual intercourse with her
8 own daughter. He spoke to Minor. Minor denies it. She
9 said he's like a father to me. And we heard from Dr.
10 Benedetto that, you know, this accommodation that she was
11 going along with -- why, because her mother is
12 participating in it.

13 These people in this familial, custodial
14 relationship with her says, "Hey look everything is okay."
15 So you heard in her testimony, she's developing this
16 relationship, this inappropriate relationship and how does
17 it manifest itself? "Minor loves Junior" on books.
18 Inappropriate. There is a tendency to focus so much on all
19 of the wrong things, and she did a lot of wrong things,
20 Linda did, that we forget that Junior tries to slip under
21 the radar. There was one person who was penetrating Junior
22 and that was Junior. Sure her mother served her up, but
23 Junior did it. You must stay focused on that.

24 We also know that at some point after the
25 investigation, Detective -- I mean Investigator Blevins, he

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1 closed the case. And after that, after he closed the case,
2 Junior left for a while and he came back and then they
3 moved into another location.

4 MS. BROWN: Objection, Your Honor, arguing
5 facts not in evidence. May we approach?

6 THE COURT: Yes, please.

7 (WHEREUPON there was a bench conference out of
8 the hearing of the jury and the court reporter.)

9 MR. CHANDLER: They spoke with Detective
10 Blevins in 2002 instead of 2001. Now, when Junior came
11 back and he moved in with Minor and her mother, the same
12 inappropriate sexual contact began to occur again. What we
13 know from the testimony from both Minor and also from
14 Linda is that he would then continue to have sex with her
15 at the new home where they lived. It was at that time,
16 between August of 2002 and September of 2002 that Minor
17 was born in August of 1998 -- 1988. Junior was born in May
18 of 1970, she was 14 and he was older, he was older than 30
19 years old. He continued to have the same sexual conduct
20 with her.

21 At the beginning -- the judge will instruct you
22 and it's been mentioned at the beginning of this trial that
23 Noel Eugene Gray, Jr. is draped with a robe of
24 righteousness, that you will determine from the facts that
25 you hear on this witness stand whether or not the State has

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1 proven beyond a reasonable doubt that he still maintains
2 that robe of righteousness. And from the testimony that
3 has happened on the witness stand, what we do know is that
4 Noel Eugene Gray moved in and lived with a married woman.
5 What we do know from the witness stand is that Noel Eugene
6 Gray began to have sex, initially with a 12 or 13 year-old.
7 What we do know is that Noel Eugene Gray, Jr. groped and
8 kissed Minor like a full grown woman.

9 What we do know from what was testified to here
10 on the witness stand was that Noel Eugene Gray, Jr. shaved
11 her legs, had inappropriate contact, which was consistent
12 with the testimony, Minor and also Linda.

13 If you can remember, at the beginning of this
14 trial, we asked you to do a number of things. The first
15 thing we asked you to do is listen to evidence, to all the
16 evidence that was presented in this case. This was
17 particularly difficult because there were some photographic
18 things that many of you did not expect to hear. Because of
19 it, we understand that it's difficult to grasp. You've
20 been patient and we appreciate it.

21 As we said before, this case is important to
22 the State of South Carolina as well as to Noel Eugene Gray,
23 Jr.; but the second thing we asked you to do, if you can
24 remember was to use your every day experiences, your common
25 sense in determining what facts came out on this jury

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1 stand. And what you do know from the facts that came out
2 on this jury stand (sic) is that there was a sexual
3 relationship between Minor and Noel Eugene Gray, Jr.
4 Specifically we ask that while you're looking at this, look
5 at what the State has to prove.

6 On two indictments, Noel Eugene Gray, Jr. is
7 being charged with criminal sexual conduct with a minor,
8 second-degree. And the judge is going to instruct you on
9 the law and we ask that you, of course, listen to the judge
10 as the final authority on that law. But on the first
11 indictment, it actually indicates that during the period of
12 July first and November first, which is that same period
13 that she was living -- that they were living with Becky and
14 Michael Williams, that Noel Eugene Gray made a sexual
15 battery with Minor.

16 Now, how do you know that. What's on this
17 stand, where do you get that from? Well the first time
18 that you get it, the first time you hear this information
19 is from her mother, and I use that term loosely, Linda
20 Brown. Linda says that she meets Noel and later on he
21 moves in and they only start off as friends and then they
22 become boyfriend and girlfriend. But Linda does something
23 that would be difficult for anybody -- hard for anybody to
24 imagine. She admits that she watched Noel Eugene Gray have
25 sexual intercourse with her own daughter and that during

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1 the time he used her as a feeler and would feel on her
2 while he was having intercourse.

3 And it also has been testified that Linda,
4 while Noel was having sex with her daughter, would touch
5 her own daughter's breasts. The judge is going to talk to
6 you about how you determine the credibility of witnesses.
7 And it has been testified to and it is true that initially
8 when Blevins spoke to Linda that she denied it. She
9 explained why she denied it. She -- and you know why.
10 Anybody -- she opens herself up to being charged. She
11 admits that she's afraid of being charged. She prays that
12 she doesn't get charged here. But in using your every day
13 experiences, I ask you to question, what woman, what mother
14 would admit to any of this unless it's true. If the
15 argument is going to be, well her and Junior had a fight
16 and as a result of the fight, she got mad.

17 Well if she wants to get back at Noel Eugene
18 Gray, Jr., there's a whole lot of things that she could do.
19 She could bring him for having sex with her daughter
20 without implicating herself. Use your every day
21 experiences. This is the truth. You saw how reluctant she
22 was to admit this. This wasn't somebody who is out to be
23 vengeful. And why would she -- why would she admit it now.
24 She didn't admit it to Investigator Blevins. After all the
25 coverup, she told you, she told you right here on the

1 stand, the reason why she's admitting it now, is because
2 she wants it all over. As I said, it's easy to focus on
3 how could this mother do it. But today, this trial is
4 about Noel Eugene Gray and we must focus on Noel Eugene
5 Gray. Anybody else can have their day in court.

6 But as I said at the beginning of this trial,
7 we are here to discuss the actions of Noel Eugene Gray.

8 Let's talk about Minor 1. She was on the stand.

9 Minor indicated that at the beginning, when she refused
10 to first disclose it to Investigator Blevins, that the
11 reason why she did it was because she was afraid. She
12 thought she did something wrong, she was afraid for
13 herself. She was afraid for her mother. Does it make
14 sense? It definitely does to the court psychologist. She
15 was afraid for Noel. She liked him. She loved him. He
16 was her teddy bear, her Pooh Bear. This 31 year old man,
17 inappropriate conduct.

18 And then when she later on finally admits it
19 and she goes to the ARC and she finally admits it, she
20 still doesn't tell it all. She still does not tell it all.
21 That's consistent according to Dr. Benedetto with that
22 piecemeal or partial disclosure. And certainly it is
23 obvious why she wouldn't tell it all, why she wouldn't talk
24 about the actions of her mother; because despite what her
25 mother did or how her mother failed to protect her, she

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1 still loves her mama. You saw her on the stand.

2 What reason would she have to make up these
3 things? What reasons would she have as she says she's
4 still afraid for her mother -- would she have to indicate
5 that her mother touched her? Why Noel Eugene Gray was
6 having sexual intercourse with her? Use your every day
7 experiences. The judge will instruct you that according to
8 South Carolina State law, that the State does not have to
9 offer any other corroborating evidence, other than the
10 victim's testimony that she had been sexually abused. But
11 the State will still have to prove it beyond a reasonable
12 doubt.

13 Now, when you talk about proof beyond a
14 reasonable doubt that these things took place on those
15 occasions, we're not talking about beyond an absolute
16 certainty, but beyond a reasonable doubt because very few
17 things in life can be decided beyond an absolute certainty.
18 But a reasonable doubt and in this case, why else would
19 these actions take place? Think about the testimony of
20 Minor and how difficult it was for her to talk about
21 the things that happened to her during that period of time;

22 how her mother served her up and how Noel Eugene Gray took
23 advantage of that.

24 We also offered the testimony of Mike Williams.
25 Uncle Mike that she calls him, a friend of Noel Eugene

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1 Gray, gives him a place to live when he didn't have one.

2 Also offered him a place to work; or gave him a place where
3 he could work. But he admittedly saw Noel Eugene Gray
4 groping Minor

5 He admittedly saw Noel Eugene Gray
6 shaving her legs with her private parts sitting exposed.

7 And what does he do? He tells the mother. But you know
8 the truth there, the mother was participating. She was
9 aware that this was going on.

10 Anonymous caller calls it in and indicates that
11 this is going on. Use your every day experiences. This is
12 what happened. And this case today is about Noel Eugene
13 Gray, Jr. And she should not be slighted or restricted
14 from taking reasonability for his actions. Use your every
15 day experiences. We offered the testimony of Dr. Bethea.
16 Dr. Bethea, she gave the physical examination of Minor
17 And she was brought for the specific purpose of saying that
18 although it is a myth that the hymen or that the area
19 membrane around the vagina, it's a myth that it's torn or
20 damaged after a person number of sexual experiences. She
21 basically says that after a month, you heard her testimony,
22 if it's a month or so after the experience, it doesn't

23 matter how many times it happened, but basically because of
24 the nature of it, it would heal and you would very seldom
25 see any evidence and there wasn't. But we offered that.

And of course, Dr. Benedetto. We offered that

1 evidence and all those things that you saw, that behavior
2 and everything that was consistent with what happened is
3 consistent with the sexual abuse of Minor This
4 case is about responsibility. And no matter how
5 disappointed, disgusted or totally through that you are
6 with the actions of Linda Brown and her refusal, her
7 inability and even her criminal acts against her daughter,
8 this case is not about Linda Brown today. It's about Noel
9 Eugene Gray. Noel Eugene Gray should not be allowed to
10 pass because her mother did what she did. He's guilty. He
11 did it and there is no excuse that would allow him to walk
12 just because the mother had failed to protect her daughter.
13 Just because she offered her up, he didn't have to take it.
14 But that's exactly what he did. He took it away from her.
15 He exposed her to inappropriate conduct.

16 Specifically, the indictments, the first
17 indictment that talks about between July and November of
18 2001, specifically is going to lay out the sexual battery
19 between Noel Eugene Gray and Minor . He's guilty
20 of that and we ask that you find him guilty. Sexual
21 battery meaning sexual intercourse and with reference to
22 August of 2002 to September of 2002, during the time that
23 Noel is now living with Minor and her mother, their own
24 place, he's clearly older than her.

25 And based on all the testimony, he definitely

1 had sexual -- he committed sexual battery or had sexual
2 intercourse with her. These are the facts that we have
3 presented to you. These are the facts that happened to
4 Minor. These are the facts that the State would ask
5 you to use to find Noel Eugene Gray guilty of criminal
6 sexual conduct with a minor, second-degree for the actions
7 that he did when Christina was 12 and 13; and guilty of
8 criminal sexual conduct with a minor for the actions that
9 Noel Eugene Gray did when she was 14.

10 Thank you so much.

11 MS. BROWN: There's a lot that you just heard
12 about the facts of this case leading to one conclusion.
13 There's a lot that was said about the facts of this case
14 leading to the one conclusion that Noel Gray is guilty of
15 criminal sexual conduct in the second-degree with a minor.
16 Well, there's still a long way to go before you can reach
17 that conclusion. First of all, by the defendant taking a
18 trial, he tells you he's not guilty. He's not guilty.

19 What evidence do you have of his guilt? Who
20 are these credible witnesses that the State say testified
21 so strongly and so truthfully that you would have no choice
22 but to believe them? That's what they're saying. What
23 they're saying to you is that you have no choice but to
24 believe Linda and Mike and Minor and that today or
25 yesterday is when you should believe that they were telling

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1 and you saw your daughter in that position with some man
2 who's lived in your house for a month, doing that? Well we
3 probably know that the first thing that you're going to do
4 and it's probably not going to involve the guy breathing.
5 It's probably going to have him being taken out on an
6 ambulance stretcher. Certainly, your going to kick him out
7 of the house.

8 MR. CHANDLER: Objection, Your Honor. May
9 we ---

10 THE COURT: Yes, sir.

11 (WHEREUPON there was a bench conference out of
12 the hearing of the jury and the court reporter.)

13 MS. BROWN: It's absolutely incredulous, is it
14 not? To think that that's what happened; to think that he
15 walked in that room and saw that? That's not what you do.
16 It's just not. A person doesn't say, "Oh, I'll just tell
17 Linda about it, let her take care of it." No. He knew him
18 for a month at that point is what he told you yesterday?
19 He's got no loyalties to him, no allegiances to him.
20 Certainly he has no reason to be afraid of him. And he
21 doesn't kick him out of his house, doesn't call the police,
22 doesn't inflict some kind of bodily harm coming in on that
23 situation?

24 Use your common sense. He didn't see that. He
25 loves Linda. He loves Minor . He wants to help them.

1 It's an admirable trait. It doesn't mean he saw what he
2 says he saw. It doesn't mean he knew anything. And this
3 is about more than focusing on Linda, so don't focus your
4 attention on Noel Gray. When the State puts her up as a
5 witness for her to testify that she saw certain things, her
6 credibility comes into question, absolutely in question.
7 She's admitted to lying on multiple occasions. She's
8 admitted to lying in order to protect herself. And what
9 did she tell you? I asked her the question, did she
10 believe that her testimony, in other words her coming in
11 here and telling the story that she told, did she believe
12 that that was going to prevent her from prosecution. She
13 said, "I hope it keeps me out of jail."

14 So I asked her again, do you believe that your
15 testimony, her coming in and telling this story will keep
16 her out of jail. What did she say? "I'm hoping and
17 praying." That's not testimony of someone coming in and
18 getting it off their chest. That's someone tailoring their
19 testimony, what she thinks they want to hear so that she
20 doesn't get prosecuted.

21 Think about it. She hasn't been charged.

22 Minor wasn't taken away from her. She never came
23 forward and said, you know, by the way, now that ya'll are
24 investigating my daughter, I want you to know, I do know
25 what happened because I saw it and I was involved too and,

1 you know, I don't want to be prosecuted, so, you know, give
2 me some protections, give me some immunity, do something
3 for me so that I can help you with your case. That didn't
4 happen here. That's not what happened here.

5 In September of 2002, according to Blevins,
6 September 11, of 2002, they received a phone call, an
7 anonymous phone call. We have no idea who made that call,
8 why that call was made or even specifically what was said.
9 They didn't bring you that information, just that a call
10 was made, they went to investigate. He went to the school,
11 talked with Minor (Minor was in a safe environment
12 and she said nothing happened. He took it a step further,
13 went and talked to Linda. Linda, who says, "I'm disabled,
14 I'm a stay at home mother, I'm always here, nothing
15 happened, nothing could have happened."

16 That's what she said, no one else was around.
17 Blevins said Noel Gray was not there. He didn't say
18 there's an allegation that Noel Gray is touching your
19 daughter and that you are too. That's not what they said.
20 She didn't have any reason to believe at that point that
21 they were investigating her. They weren't investigating
22 her. You know, it's easy enough at that point to say, yes,
23 I'm so glad that it came out, my daughter's been in danger
24 and I've been scared and I've really wanted to tell you,
25 But I've been afraid because, you know, I've been coerced

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1 into this or this, that and the other. Whatever. She said
2 nothing's happened. Nothing's happened.

3 No one else was interviewed at that point and
4 it must have been convincing enough for them to close their
5 case. They didn't do any further investigation. So they
6 must have been pretty convinced. Next thing you know, and
7 Minor told you, Junior says, I'm out of here. He was
8 already gone for one period of time. He says I'm out of
9 here. They get in a huge fight over it. Minor told
10 you, they fought. Her mother begged him not to leave, got
11 angry with him. But he left. He left any ways.

12 And the next thing you know, low and behold,
13 Linda's making that phone call. She's angry. Minor
14 she's probably upset too. She loved him, but she loved her
15 mom too. And she told you, she'd lie for her mother. But
16 what's critical in this, ladies and gentlemen, is that when
17 that second phone call was made, Linda's still lying.
18 She's lying when she says --- "Oh, I confronted my daughter
19 and she just told me what happened and I just had to pick
20 up to phone and call you." According to what she said
21 yesterday, that's not what happened.

22 But, you know what, she's had 2 years, 2 years
23 since that day that she talked with Investigator Blevins.
24 It was 2 years later that she told you they met with the
25 solicitor's office who was getting ready to bring this case

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1 in here and put it in front of ya'll. And yes, on the one
2 hand you can look at it as the expert wants you to believe
3 that Minor 's story, you get more and more pieces of it, or
4 perhaps it's just getting exaggerated more and more to make
5 it sound more realistic. And Minor says at one point,
6 you know, even mom knew what was happening. She kind of
7 touched me. That sets off another whole investigation.
8 And she probably didn't expect that. A young girl wouldn't
9 expect that.

10 And what happened? When they were investigated
11 and they were both interviewed by the DSS worker? Both of
12 them told you, Minor , no that didn't really happen.
13 That's what she told the DSS worker, it didn't really
14 happen that way. I slipped up and now I'm starting to get
15 mom in trouble. Now I've got to stop. Linda adamantly
16 denied it at that point. And at what point do you think
17 she realized that in order to fix the testimony that she
18 was going to have to say, "Well, yeah, it did."

19 Minor was still telling you yesterday that
20 mama didn't do it to her, that she didn't know it was going
21 on, she wasn't touching. Because she didn't want her mom

22 to get in trouble. Mom, perhaps a little older and wiser,
23 who understands more of how things probably need to go
24 says, "Yeah, it happened and yes, I hope that by me saying
25 that here today, keeps me from being prosecuted, keeps me

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1 from going to jail."

2 That is the total of the evidence that has been
3 presented to you. That's the total of the evidence that
4 you have. Did the experts really add anything? Did they
5 really clear up anything for you? You know, they brought
6 Dr. Bethea in who did the examination and she said it was a
7 normal genital examination. Please do use your common
8 sense. She said it was normal and that the hymen, after a
9 girl goes through puberty and she has more Estrogen becomes
10 pliable and after first sexual contact, first sexual
11 intercourse it doesn't obliterate. But what she couldn't
12 tell you is how many times it takes. What she couldn't
13 tell you is whether or not they usually see folks after 3
14 encounters, 4 encounters, 5 encounters. Does the position
15 matter? She couldn't tell you any of that.

16 So essentially, what you have is nothing.
17 Essentially what you have is an expert coming in here and
18 saying, I can't say it happened and I can't say it didn't
19 happen. That's not evidence that it happened. That's not
20 evidence by which you can use to determine whether or not
21 the State has proved their case beyond a reasonable doubt.

22 She doesn't know. She couldn't tell you what to expect.

23 She could tell you, yeah, that statistics say that most of
24 the time you don't find evidence, but then she also said
25 that's, you know, she doesn't know how many cases in those

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1 statistics were of people where you wouldn't have expected
2 to find any physical evidence because there was only
3 touching.

4 You know, I had to struggle through a
5 statistics class my last semester in college. I'm not sure
6 why they made me do that for a Poli Sci Major, but that was
7 the case. Well, what I learned in that statistics class is
8 that when someone throws, you know, a study at you -- you
9 hear on the nightly news, a new study indicates that such
10 and such percentage of so and so does something. And you
11 think, gosh, well I shouldn't do that anymore. Then a
12 month later, well another study came back and said the
13 exact opposite. Because what we in the general public
14 never know because the media doesn't go into all those
15 things about standard deviations and controlled populations
16 and margins begins of error.

17 What were they studying? How many people in
18 the controlled group would you not have expected to find
19 evidence any way. That's a statistically insignificant
20 number if you say that you have a study that shows that X
21 percentage of people don't have physical signs of abuse but
22 they don't control out the folks where you would have
23 expected to find it. How is that a statistically
24 significant number? How does it tell you anything? It
25 doesn't. And she essentially said it doesn't. That's what

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1 they want you to focus on.

2 You know, they accuse me of using Linda Brown
3 as a smoke screen. Isn't that what they're doing with
4 these experts? Using them as a smoke screen to kind of
5 bolster the credibility of these witnesses? Brings this in
6 to say, well we wouldn't have expected to find anything any
7 ways and we didn't. Bringing in this psychologist to say,
8 well, because she had anxiety, depression, dissociation,
9 that's consistent with someone who's been sexually abused.

10 Did she talk to Minor about the other
11 things going on in her life? Did she talk to Minor
12 about the fact that over at least a period of time of 18
13 months her mother had been separated from her father, she
14 had been bounced around from house to house to house, never
15 really even having a place to call her own except for about
16 the 2 months prior to the exam? Not having her father back
17 in her life on a consistent day-to-day basis until these
18 allegations came out.

19 Did she talk about the fact that, you know,
20 talk to her about the fact that because she has ADD and
21 doesn't do well in school, that's probably a depressive
22 factor, that's probably causing some anxiety. The trauma
23 that she's experienced, you know, with her mother dragging
24 her around from pillar to post, but it's a smoke screen.
25 They want to bolster because they know these witnesses

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1 MR. BROWN: First of all I appreciate the
2 chance to be able to have my say. In this whole mess,
3 there's really been four victims. My daughter was sexually
4 molested but my whole family has suffered because of this.
5 It's been really hard for all of us.

6 THE COURT: Who is the -- I see you and your
7 daughter, who is the ---

8 MR. BROWN: My son.

9 THE COURT: Oh, your son.

10 MR. BROWN: He's 11.

11 THE COURT: And then your wife?

12 MR. BROWN: Yes, sir.

13 THE COURT: Okay.

14 MR. BROWN: My wife made a mistake. I admit
15 she's done wrong, but I forgive her for what she did. And
16 I know God forgives her for what she did.

17 THE COURT: In fact, that's one thing I want to
18 say and I'm not going to dwell on it too much, but I think
19 that the solicitor, if they do their job, they will be
20 indicting her because I think it's one of the worst things
21 I've ever seen in all my years as a judge and a lawyer.

22 And she did more than make a mistake, she violated the law
23 very seriously and to my way of thinking, you know, there
24 are always predators out there but for the person who is
25 charged with protecting a young girl to give away is just

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1 beyond -- just wrong. But anyway, that's just how I feel
2 and that case is not before me now.

3 MR. BROWN: This is not the time or place to go
4 into that, I agree.

5 THE COURT: But I did want to say that I wanted
6 to express my opinion that I think the solicitor's office
7 ought to indict her to the full extent of the law and let
8 her get her day in court also. Anything else?

9 MR. BROWN: Just the only other thing is that I
10 hope that the court will see fit that this man will never
11 be able to do this to anyone again.

12 THE COURT: Well, it's kind of out of my hands
13 because the law is what the law is and I'm just charged
14 with enforcing it.

15 MR. BROWN: Thank you.

16 THE COURT: Good luck to you, sir, and your
17 family.

18 Anything else?

19 MR. CHANDLER: None from the State, Your Honor.

20 THE COURT: If the defendant would come around,
21 and Ms. Brown. Anything you would like to say?

22 MR. GRAY: Yes, sir.

23 THE COURT: Excuse me, I was going to --
24 Ms. Brown, are you ready for him -- I didn't mean to
25 address you particularly, I was talking to your attorney,

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1 Ms. Brown. I didn't mean to ---

2 MS. BROWN: Your Honor, if Mr. Gray wishes to
3 address the court, I would prefer for him to go ahead and
4 address the court and then I will close with remarks.

5 THE COURT: Okay. Mr. Gray, I will be glad to
6 hear from you.

7 MR. GRAY: Yes, sir. Well, sir, this is kind
8 of outraged. I've never done anything to her or anybody in
9 my life. The only reason I was convicted of that back in
10 '99, was because I signed a plea agreement, thought it was
11 supposed to have been for a psychological evaluation. So I
12 paid for it. And it's just no possible way -- I didn't do
13 nothing but help these people. You know, I was there for
14 Linda with all her doctor's appointments. I was there
15 working. I had a job. Over times I was helping her going
16 back and forth to doctor's appointments and stuff. She has
17 a lot of illness in her life. And, you know, I just don't
18 understand it. How could they find me guilty on something
19 I didn't do. I just ask for you -- that you have mercy on
20 me.

21 THE COURT: Well, I frankly wish the law did
22 not require me in a situation like this to give you this
23 sentence. I think it's not fair either, frankly, but
24 that's beyond my power. I don't make the law, I just
25 enforce it.

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1 Ms. Brown, I will be glad to hear from you.

2 MS. BROWN: Thank you, Your Honor, may it
3 please the court. Your Honor, we're not going to belabor
4 the point very much. I think certain facts did come out in
5 the trial. Mr. Gray is now 34 years old. He was not a
6 long time resident of this area. He was essentially -- he
7 was on probation at the time when this happened. He did
8 meet the folks as indicated and did -- has spent some time,
9 you know, kind of back and forth in jail much of his adult
10 life.

11 Your Honor, I hesitate to go too much further
12 into his background or address certain matters. It's --
13 you never really know when something may end up coming back
14 and I would hesitate to do anything that would potentially
15 damage him in any way down the road. So we understand the
16 law is what it is. We were served with proper notice and I
17 believe -- I have not seen whether or not the State has
18 passed up a certified copy of the prior charge.

19 THE COURT: Have you seen it?

20 MS. BROWN: I have seen a copy of it. I did
21 not know if that had been done. That being the case, we --
22 I discussed with Mr. Gray. He knew the consequences if
23 this case, if he was convicted at trial and we are prepared
24 to receive sentence at this time.

25 THE COURT: Okay. On each of these two

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1 indictments, being Indictment 1333 and 1334, the sentence
2 of the court that the defendant Noel Eugene Gray Jr. be
3 committed to the State Department of Corrections for a term
4 of life without parole.

5 MR. CHANDLER: Thank you, Your Honor.

6 THE COURT: Good luck to you, sir.

7
8
9 * * * * * END OF TRANSCRIPT * * * * *
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STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

IN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

v.)

NOEL GRAY, JR.,
DEFENDANT)

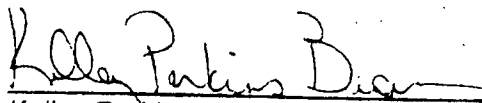
REQUEST TO VOIR DIRE

Ind #: 2004-GS-02-1333, 2004-GS-02-1334

The Defendant, by and through his undersigned attorney, respectfully requests that the court ask the following questions of the prospective jurors, in addition to the standard voir dire questions:

- ✓ 1. Have you, your family, or any close personal friends ever been employed by any law enforcement agency or any prosecutor's office?
- ✓ 2. Have you, your family, or any close personal friends ever been the victim of any crime?
- ✓ 3. Have you, your family, or any close personal friends ever been the victim of any crime of a sexual nature?
- ✓ 4. Are you a member or, or a financial contributor to, any organization for which either support of law enforcement or support of crime victims is its primary aim? These would include, but not limited to, MADD, SADD, CAVE, the South Carolina Trooper's Association, the Cumbee Center to Assist Abused Persons, or any other similar organization.

Respectfully submitted,



Kelley Perkins Brown
Attorney for Defendant

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STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA,

STATE'S REQUESTED VOIR DIRE

VS.

NOEL EUGENE GRAY, JR,

2004-GS-02-1333

2004-GS-02-1334

Defendant

The State respectfully requests of the Court that the following questions be asked of the jury panel:

1. Are any members of the jury panel related to, friends with, or an acquaintance of the Defendant, Noel Eugene Gray , Jr., or any of the Defense's witnesses?
2. Are any members of the jury panel past or present clients of Attorney Kelley P. Brown?
3. Are any members of the jury panel related to, friends with, or an acquaintance of Attorney Kelley P. Brown?
4. Has any member of the jury panel, a family member, or an acquaintance ever been charged with or convicted of a sex related crime?

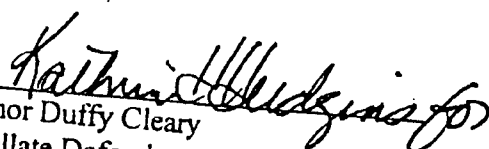
Respectfully submitted,

Everett K. Chandler
Assistant Solicitor
2nd Judicial Circuit

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 1st, 2006


Eleanor Duffy Cleary
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT.

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State of South Carolina

County of Aiken

) Court of Common Pleas
08-CP-02-00734

Noel Gray, Jr.

Plaintiff
vs.

State of South Carolina
Defendant

)
)
) Transcript of Record

February 2, 2009
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Bradley L. Boni, Esq.
Attorney for the Plaintiff

Mary S. Williams, Esq.
Attorney for the Defendant

FILED

September 24, 2002

Liz Godard
C.C.P. & G.S.

Cheryl Westall (CW)
Deputy Clerk

Lisa H. Davenport
Official Court Reporter

EX. 2-1

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INDEX OF WITNESSES

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Direct examination by Mr. Boni..... 4
Kelley P. Brown,
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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
S-1	Order for continuance	15	15

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1 (Whereupon, on February 2, 2009 the following
2 proceedings were held:)

3 THE COURT: This is the State versus Noel Gray?

4 MS. WILLIAMS: Yes, Your Honor. May it please the
5 Court. He was represented at trial by Kelley Brown. He
6 is represented today by Brad Boni. His PCR was filed on
7 April 18 of 2008. This case arises from two charges -- a

8 criminal sexual conduct in the second degree with the
9 minor. He has raised several PCR allegations in his
10 application.

11 In general terms there were -- he raised issues of
12 violation of the federal Interstate Agreement on Detainers
13 Act, an enhanced sentence under the recidivist statute, an
14 officer committing perjury, failing to discover witnesses,
15 that life without parole is an illegal sentence, failure
16 to inform him that he cannot -- that excuse me, failure to
17 inform him of his right to make a closing argument,
18 failing to suppress the testimony of a witness named L [REDACTED]
19 B [REDACTED], the use of the words rape trauma, and that he
20 should've had a lesser included ABHAN and that there was
21 no evidence to support a DSS finding putting his name on a
22 registry. We would ask to clarify any allegation at this
23 time so that the court is aware of what we're looking at.

24 THE COURT: All right. He had an appeal?

25 MS. WILLIAMS: He did have a direct appeal and the

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~~EX-34-36~~

1 issue raised in that appeal was the legitimacy of a prior
2 Georgia conviction being used for the recidivist statute.
3 His appeal was dismissed. The Court found that the
4 Georgia charge was fine to be used as a prior offense to
5 activate South Carolina's recidivist statute. The
6 remittitur was sent on January 30 of 2008.

7 THE COURT: Thank you.

8 All right, sir, Mr. Boni?

9 MR. BONI: Your Honor, my client's allegations boil
10 down to ineffective assistance of counsel regarding the
11 violation of the Interstate Agreement and Detainers Act
12 and then the second issue being that she did not raise any
13 issue on the most serious offense on the recidivist
14 statute giving my client life without parole. Those are
15 really the main two arguments that he has put in his brief
16 that we feel need to be addressed.

17 THE COURT: All right. You may call any witnesses
18 you deem appropriate.

19 MR. BONI: We'd like to call Mr. Gray.

20 NOEL E. GRAY, JR., after being duly sworn,
21 testified as follows:

22 THE CLERK: Please have a seat in the witness box and
23 state your full name for the Court.

24 THE WITNESS: My name is Noel Eugene Gray, Jr.

25 THE COURT: Your witness.

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DIRECT EXAMINATION

1
2 BY MR. BONI:

3 Q Mr. Gray, when did you file your request for final
4 disposition of your charges here in South Carolina?

5 A I didn't hear you, sir.

6 Q I'm sorry. When did you file your request for final
7 disposition of your charges?

8 A May 5, 2004.

9 Q May 5, 2004?

10 A (Witness nods head.)

11 Q Okay. And when were you actually transported to
12 South Carolina?

13 A September 1, 2004 by the Aiken County Sheriff's
14 Office.

15 Q Okay. And your trial began on January 31 of 2005,
16 ended on February 2, 2005; is that correct?

17 A Yes, sir.

18 Q Which, if my math is correct, I believe that's more
19 than 180 days since May 2004 -- May 5, 2004?

20 A (Witness nods head.)

21 Q Did you ever consent to a continuance of your trial?
22 A No, sir.

23 Q Did you ever appear in open court for a continuance
24 of your trial?

25 A No, sir.

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~~EX-37-5~~

1 Q Were you aware that a continuance had ever been filed
2 on your behalf?

3 A No, sir.

4 Q Okay. Let me ask that one more time. So, you never
5 appeared in open court for a continuance on this trial?

6 A No, sir.

7 Q All right.

8 A Never have.

9 Q Is there anything else that you'd like to state for
10 the court for Judge Early?

11 A Well, yes, sir --

12 THE COURT: Wait a minute. What's the point you're
13 trying to make?

14 MR. BONI: The point I am trying to make, Your Honor,
15 is that more than 180 days had passed since he filed for
16 disposition of his charges that were pending in South
17 Carolina to the date of trial which under Interstate
18 Agreement detainers Act --

19 THE COURT: Give me a code section.

20 MR. BONI: Code section 17-11-10, article 3.

21 THE COURT: Hold on. 17-11-10, article 3.

22 MR. BONI: Article 3, paragraph A, Your Honor.

23 THE COURT: A.

24 MR. BONI: It states that he should be brought to
25 trial within 180 days.

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~~EX-31A~~

1 THE COURT: Shall be, right?

2 MR. BONI: Shall be brought to trial --

3 THE COURT: Provided that the good cause shown in
4 open court the prison or his counsel being present the
5 Court having jurisdiction may grant any necessary or
6 reasonable continuances. All right, sir. Do you have a
7 copy of the request for final disposition?

8 MR. BONI: Yes, I believe I do, Your Honor.

9 THE COURT: What happens when it's not done within
10 180 days?

11 MR. BONI: Well, under the case State v Holbrook I
12 believe...

13 THE COURT: You got a copy of the case?

14 MR. BONI: No, sir. Unfortunately, I do not. I
15 apologize.

16 THE COURT: Is it a difficult case to find or?

17 MR. BONI: I apologize. State v Holbrook was the
18 violation of 120 days which is further down in that act.
19 Once the person is brought to South Carolina or to the
20 receiving state, once he's been transported they have 120
21 days from that period to bring to trial which that would
22 have been violated as well without a continuance. That is
23 what was under State v Holbrook.

24 THE COURT: Do you have any caselaw that shows I'm
25 supposed to dismiss it?

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1 MS. WILLIAMS: I am not sure this is the perfect time
2 to mention, but I believe Mrs. Brown has a copy of a
3 continuance order in her file.

4 THE COURT: Has a copy of what, ma'am?

5 MS. WILLIAMS: She may have -- I believe that she has
6 a continuance order and may testify to that.

7 THE COURT: I am just asking what --

8 MR. BONI: No, Your Honor. I don't believe I have a
9 copy of the case.

10 THE COURT: Okay. Move along. So, your position is
11 they should have tried it within 180 days and the failure
12 to do so would result in a dismissal of the charges and
13 your counsel was ineffective because they did not bring
14 that to the Court's attention?

15 THE WITNESS: Yes, sir.

16 MR. BONI: Our second issue on the most serious
17 offense, I don't know that it necessarily requires any
18 testimony. I think it's more of a legal argument.

19 THE COURT: All right. Now, Mr. Gray, I've taken the
20 testimony on the Interstate Agreement on Detainers Act.
21 The other one is the recidivism statute which, I assume,
22 would be based on the record and legal argument; is that
23 correct?

24 THE WITNESS: I believe so, Your Honor.

25 THE COURT: All right. Is there anything else you

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1 want to tell me in connection with those two issues?

2 THE WITNESS: Yes, sir, with the IADA at the time
3 that it was violated I also sent correspondence to your
4 office as well as --

5 THE COURT: My office?

6 THE WITNESS: -- Miss Wallis. Yes, sir.

7 THE COURT: Why would you send it to me?

8 THE WITNESS: I was trying to report that my IADA was
9 violated and I was trying to seek some legal help because
10 I tried talking to my counsel, but she wouldn't discuss it
11 with me and I filed grievances on behalf of that as well.

12 THE COURT: All right. Anything else?

13 THE WITNESS: No, sir.

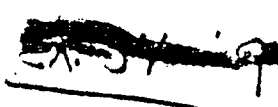
14 THE COURT: Any cross examination on the testimony
15 he's given so far?

16 MS. WILLIAMS: No, sir.

17 THE COURT: You may step down.

18 All right, sir. Why don't you let me hear from you
19 on the legal argument on the recidivism statute?

20 MR. BONI: Yes, Your Honor. That statute under South
21 Carolina law requires prior convictions from other state
22 may be used to trigger this statute and convictions
23 offense will be classified as a most serious offense.
24 Prior conviction under State v Lindsey must contain all of
25 the elements of the most serious offense.



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1 His prior conviction from Georgia was for aggravated
2 child molestation. Under the Georgia statute aggravated
3 child molestation occurs when such person commits an
4 offense of child molestation which act physically injures
5 a child or involves an act of sodomy. The Georgia
6 indictment against my client stated -- alleged that he
7 unlawfully performed a sexual act; to wit, sodomy, an
8 ~~immoral and indecent act involving the mouth of the~~
9 accused and the vagina of the minor victim.

10 In Georgia sodomy does not require actual
11 skin-to-skin contact. You can be found guilty of sodomy
12 even if clothing is on and nowhere in his indictment or
13 any of the allegations state that all the clothing was off
14 and there was any actual contact.

15 THE COURT: In his Georgia indictment. In the
16 indictment from Georgia?

17 MR. BONI: Yes, Your Honor, in the Georgia
18 indictment. Which, obviously, under his offense here and
19 the criminal sexual conduct act it does require sexual
20 battery which among many things means cunnilingus. An act
21 of cunnilingus requires the male tongue to reach the
22 female vagina that was stated in State v Morgan.

23 So, it is our belief that the same elements are not
24 there -- that the elements from his Georgia conviction do
25 not have the same or similar elements that are here in his

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~~State v Morgan~~

1 criminal sexual conduct act, and, therefore, would not
2 trigger the recidivist statute and create a life without
3 parole sentence.

4 THE COURT: He was convicted of criminal sexual
5 conduct in the second degree?

6 MR. BONI: Second degree.

7 THE COURT: Without the enhancement it would have
8 carried what sentence?

9 MR. BONI: I think a maximum of 20 years, I believe.

10 THE APPLICANT: It was 30; 15 apiece.

11 MR. BONI: Okay. It was 15 apiece. So, it would've
12 been a maximum of 30.

13 THE COURT: On the consecutive type sentence?

14 MR. BONI: Yes, Your Honor.

15 THE COURT: All right. Anything else?

16 MR. BONI: That's it, Your Honor.

17 MS. WILLIAMS: Just with regard to the recidivist
18 statute, Your Honor, I would just note for the record that
19 the Court of Appeals ruled on this issue and found that --

20 THE COURT: Did they issue a written opinion or was
21 it just a --

22 MS. WILLIAMS: They issued a short per curiam opinion
23 following the submission of an Andrews brief and did
24 actually address that the Trial Judge erred by allowing
25 the prior out of state charge for aggravated child

~~Debra J. Williams~~

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1 molestation to be classified as a most serious offense in
2 South Carolina. After a thorough review of the record the
3 Court of Appeals dismissed that appeal on that exact
4 allegation.

5 MR. BONI: And, Your Honor, I think possibly it might
6 be because it was not really an appealable issue. I think
7 it was more of an issue that went to the PCR relief

8 because it was ineffective assistance of counsel for not
9 raising this issue at sentencing.

10 THE COURT: All right, ma'am. How about detainer?

11 MS. WILLIAMS: I would like to call Kelley Brown to
12 give testimony. If we could get Mrs. Brown.

13 KELLEY P. BROWN, after being duly sworn,
14 testified as follows:

15 THE CLERK: Please have a seat in the witness box and
16 state your full name for the Court.

17 THE WITNESS: My name is Kelley Perkins Brown.

18 DIRECT EXAMINATION

19 BY MS. WILLIAMS:

20 Q Mrs. Brown, when were you appointed to represent
21 Mr. Gray in this matter?

22 A My file indicates that our office was appointed and I
23 was assigned to represent him on February 17 of 2004
24 pursuant to his writing from out of state and requesting
25 an attorney on the charges. I did not actually have

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Ex-340-2

1 opportunity to confer with with Mr. Gray until he was
2 transported from I believe it was Lexington, Kentucky to
3 the the Aiken County Detention Center sometime after
4 September -- beginning of September of 2004.

5 Q And are you aware -- did he ever send you a request
6 for information on this International Detainer -- I'm
7 sorry; the Detainer Act question?

8 A Well, he had questions about that. I believe the
9 correspondence that I had from him regarding that issue
10 started around December of 2004.

11 Q And was there ever a continuance granted in the case?

12 A Yes, there was. An order was signed by Judge
13 Reginald Lloyd who was the Chief Administrative Judge for
14 the Second Judicial Circuit at that time and that was
15 signed on October 29 of 2004 and was filed on November 8
16 of 2004. I had spoken with Mr. Gray on October 13, I
17 believe it was, about the fact that the State was prepared
18 to try his case during the October term of court and that
19 because I had not had the opportunity to speak with him
20 about his charges until he was transported here it was a
21 very short period of time between that and the October
22 term of court and that I felt it was in his best interest
23 to have an attorney who was prepared to go forward for
24 trial given the serious nature of these charges and at the
25 time he agreed for me to seek a continuance on his behalf.

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1 Q Does that continuance -- was there a date given
2 through which the continuance would last?

3 A Yes. The order stated that if the indictments had
4 not been dealt with -- been disposed of by February 23 of
5 2005, then they would be dismissed with prejudice pursuant
6 to the Interstate Agreement on Detainers.

7 Q All right. And if we could -- if I could get a copy
8 of that order, I would like to submit that order into
9 evidence in this case or at least let the Judge have an
10 opportunity to review that.

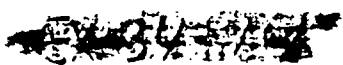
11 THE COURT: Let me see it, please.

12 Q I would like to ask you a little bit about your
13 research regarding the recidivist statute. Did you have
14 an opportunity to review the records of his Georgia
15 conviction?

16 A Yes, I did.

17 Q And did you do research on this point to determine if
18 you felt that that conviction could be used?

19 A I did. I looked at the statute itself and also the
20 -- I had a copy of the indictment, and by my research and
21 understanding the allegation was even though the term of
22 art of sodomy isn't a term of art that we would have used
23 here in South Carolina pursuant to that statute the
24 allegations under which he plead guilty involved an
25 indecent act involving the mouth of the accused and the



-GS-12. 1777

DA

1 vagina of the victim being a child under the age of 14 and
2 based on my research of South Carolina law of how the
3 South Carolina courts had interpreted other out-of-state
4 statutes it seemed on its face and based on my research
5 that the allegations would have met the factual
6 allegations necessary to sustain an indictment and
7 conviction for criminal sexual conduct with a minor in the
8 second degree in the state of South Carolina, and,
9 therefore, was appropriate to be used for enhancement
10 purposes under our recidivist statute.

11 THE COURT: Isn't that exactly what the appellate
12 brief was written on to the Court of Appeals by whoever
13 did it?

14 MS. WILLIAMS: Yes, sir.

15 THE COURT: Mr. Clarty. I mean, I just read the
16 brief. It seems like it is the same argument that you
17 just made and the same thing you're testifying about.

18 THE WITNESS: Yes, sir.

19 MS. WILLIAMS: We would have no further testimony on
20 these issues.

21 THE COURT: All right. Let's mark this order for
22 continuance no. 1 for the State in this PCR. Hold on one
23 second, please. Let the Court Reporter mark it.

24 (Whereupon, State's Exhibit No. 1 was marked for
25 identification and received into evidence.)

[Handwritten signature]

1 THE COURT: Are you aware of the order of continuance
2 by Judge Lloyd?

3 THE APPLICANT: No, sir, I was not. It was never
4 brought to my attention, sir.

5 THE COURT: Well, okay. Were you aware of it, sir?
6 Your lawyer?

7 MR. BONI: I was not aware of it.

8 THE COURT: Take a look at it. All right. You've
9 had a chance to look at it?

10 MR. BONI: Yes, Your Honor.

11 THE COURT: Anything from this witness, ma'am?
12 Anything further by the State?

13 MS. WILLIAMS: Nothing further.

14 THE COURT: Sir, anything?

15 MR. BONI: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. BONI:

18 Q You stated October 13, 2004 was when an agreement was
19 made on the continuance; is that correct?

20 A That's when I consulted with Mr. Gray about the
21 continuance and he agreed that it was in his best interest
22 to have the matter continued. I also informed him of the
23 order after it was signed. He and I had communication
24 about that matter.

25 Q Okay. Did you get anything in writing from him



04 GS-02-133

1 regarding that?

2 A No, I did not.

3 Q Okay. And regarding the allegations in the Georgia
4 indictment in your research, did you ever see where it
5 mentioned anything about skin-to-skin contact?

6 A I don't recall.

7 Q Okay. Do you recall if it ever mentioned anything
8 regarding whether clothing was on or off in those
9 allegations?

10 A If whatever involved --

11 Q If clothing between Mr. Gray and the victim -- if
12 they were wearing clothes or if the victim was not wearing
13 clothes. Do you remember -- recall in your research if
14 ever that was mentioned in the indictment or --

15 A It was not mentioned in the indictment. I would find
16 it hard to believe that an allegation could be made of
17 mouth to vaginal contact with clothing being present.
18 However, the indictment did not mention anything
19 specifically about the presence or absence of clothing.

20 MR. BONI: May I have one moment, Your Honor?

21 THE COURT: You may.

22 MR. BONI: No, Your Honor, nothing further.

23 THE COURT: Any cross? Any redirect, ma'am?

24 MS. WILLIAMS: Nothing further from the State.

25 THE COURT: You may step down.

GS-02-1335
04

~~EXHIBIT 1~~

1 THE WITNESS: Thank you.

2 THE COURT: Anything else on behalf of the State?

3 MS. WILLIAMS: I've provided the statutes and the
4 State versus Lindsey if Your Honor has any desire to look
5 at those, and other than that, we have nothing further.

6 THE COURT: Thank you. Anything on behalf of the
7 applicant?

8 MR. BONI: No, Your Honor.

9 THE COURT: All right. I am going to take it under
10 advisement and please have proposed orders within 30 days.
11 Please explain that to your client.

12 (End of transcript of record.)
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04 -GS-02- 1333

~~CONFIDENTIAL~~

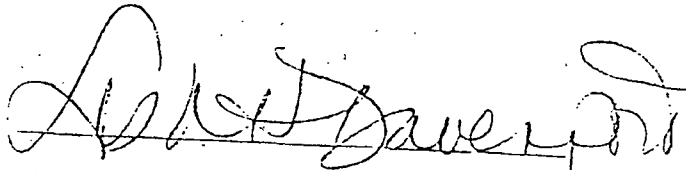
CERTIFICATE OF REPORTER

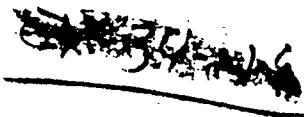
State of South Carolina)
County of Aiken)

I, Lisa H. Davenport, Official Court Reporter for the second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Aiken County, South Carolina, on the 2nd day of February, 2009.

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

July 28, 2009


Lisa H. Davenport, Court Reporter



FILED 11-30-04

J.C. GP. & G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

STATE'S
EXHIBIT

STATE OF SOUTH CAROLINA)

v.)

NOEL GRAY,
DEFENDANT)

ORDER FOR CONTINUANCE

Ind. #: 2004-GS-02-1333 to 2004-GS-02-1335

This matter comes before the Court on the combined motions of the Defendant, by and through his attorney Kelley Perkins Brown, and the State for an order continuing this matter pursuant to the Interstate Agreement of Detainers.

Upon review of the file, the Court finds the following:

1. The Defendant Noel Gray has been indicted for two counts of Criminal Sexual Conduct with a Minor in the Second Degree and one count of Grand Larceny;
2. The Defendant properly filed for disposition of these charges pursuant to the Interstate Agreement on Detainers on May 11, 2004;
3. The Defendant has been transported from the Federal Medical Center in Lexington, KY to the Aiken County Detention Center;
4. The Defendant, his attorney, and the State are all in agreement that this matter should be continued for good cause at this time as the attorney for the Defendant does not feel that she has had adequate time to prepare a defense on these charges, and the State was prepared to try this case during the October 2004 term of court;
5. The State agrees that if this matter, and any related indictments that may arise from the facts alleged in the original indictments, is not disposed of by February 28, 2005 then the above-listed indictments, and any related indictments that may arise from the facts alleged in the original indictments, will be dismissed with prejudice pursuant to the Interstate Agreement on Detainers.

IT IS SO ORDERED.

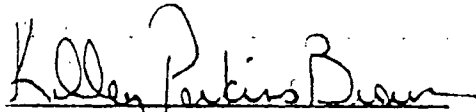
DONE this 29th day of October 2004 at Aiken, South Carolina.

Reginald L. Lloyd
Chief Administrative Judge
Second Judicial Circuit

NOV 08 2004

04 -GS-02- 1333

I SO CONSENT:



Kelley Perkins Brown
Attorney for Defendant

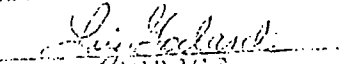
I SO CONSENT:



Everett K. Chandler
Assistant Solicitor
Second Judicial Circuit

04 -GS-02- 1333

FILED FILE 200


U.S. COURT OF APPEALS
SECOND JUDICIAL CIRCUIT

Defender Corporation of Aiken County
 410 Barnwell Avenue N.W.
 Post Office Box 2247
 Aiken, South Carolina 29802

②

Wallis A. Alves, Chief Public Defender
 Kelley Perkins Brown, Deputy Public Defender

David M. Mauldin, Assistant Public Defender
 H. Lane Daniels, Assistant Public Defender
 Billie B. Goodman, Assistant Public Defender

CONSENT FOR THE RELEASE OF CONFIDENTIAL INFORMATION

I, Noel Gray, authorize attorney George Bush of Augusta, Georgia to release any and all information pertaining to me to Kelley Perkins Brown, Post Office Drawer 2247, Aiken, South Carolina 29802.

Noel Gray
 Defendant

Witness: Lenora Walker

Date: 10/4/04 9:30 AM.

04
 -GS-02- 1333

Packet #3
 Copies 24
 FILED September 24 2002
George Bush
 A.C.P. & G.S.
Christine Westall (CSW)
 Secretary

(11-18)

Defender Corporation of Aiken County
410 Barnwell Avenue N.W.
Post Office Drawer 2247
Aiken, South Carolina 29802

③

Wallis A. Alves, Chief Public Defender
Kelley Perkins Brown, Deputy Public Defender
F. Casey D. Cornwell, Assistant Public Defender

David M. Mauldin, Assistant Public Defender
Aaron G. Walsh, Assistant Public Defender

September 29, 2006

Mr. Noel Gray, 307590
Broad River Correctional Inst.
4460 Broad River Road
Columbia, South Carolina 29210

REF: Discovery

Dear Mr. Gary:

Enclosed please find some of the information that you have requested. Mrs. Brown is out on maternity leave and is not due back into the office until November. I will have to ask her about some of the things that you are requesting. The address and phone number to attorney George Bush is 410 A Fourth Street, Augusta GA (zip ?) [REDACTED].

Let me know if I can help you with anything else.

Sincerely,

Tesa Medlin
Paralegal.

/tm

ENCLOSURE

(11-19)

Telephone: (803) 642-1732 Fax: (803) 642-1739

04 -GS-02- 1333

9-22-01

To Whom it may concern:
 This letter is in Reference
 to Noel Eugene Gray (supra) He
 is needed home really bad. He
 is a very sweet and kind human
 being. He has been a real help
 to Linda M. Brown during the stress
 and surgery she has been up under.
 He has helped Linda Brown with
 her parents her mom is going blind
 and her father has alzheimers disease.
 He has been a big help around my
 home since he has lived with me
 and my husband since July. He is
 needed home for the sake of Linda Brown's
 health and her parents. He is a
 very good and sweet individual once
 you get to know him. A little like
 way he can make you laugh when
 your down and out. He has helped me
 with my two children and helped to
 me when I felt blue. He has really
 been an inspiration for Linda Brown
 since her separation from her husband.
 Noel Eugene Gray doesn't fiscally hurt her
 like her ex-husband did. She has
 been through a rough marriage & has a lot
 of medical problems and Noel Gray has
 been a big help to her. So please,
 please let him come home.

(11-14)

 Thanks
 Love Truly William

04 -GS-02 1555

9-22-C/

To whom it may concern:

This letter is in Reference to Noel Eugene Gray (Junior) He is needed home really bad. He is a very sweet and kind human being once you get to know him. He has been a real big help to Linda M. Brown and doesn't physically abuse her like her ex-husband did. Noel Gray has also helped Linda Brown with her mother who is going blind and her father which has alzheimers. Linda Brown has a lot of Medical problems and just recently has had surgery in which Noel E. Gray helped her get through. He (Noel E. Gray) loves Linda Brown and cares deeply for her and she needs him home and has also helped her with her daughter Minor with her schooling. Noel E. Gray has helped me and my husband around our house since he has lived with us since July. Our son thinks of him as his big brother and looks up to him. Noel Gray has helped my son with his schooling. Please let him come home we all desperately need him home.

(EX-111-13)

Frank
~~James B. Williams~~

(10-15)

GS-02 1333

04

11-20-01

This is a Statement from I
 [redacted] about Noel Gray Jr.
 (Junior). The reason Noel is needed
 home is because he is like a brother
 to me. He has helped me in my school
 work. He has volunteered at my school.
 He has taken me hunting, and fishing.
 He has talked to me when I needed
 someone to talk to. That is why Noel
 is needed home. Noel is a big help to
 my aunt Linda. He loves her. He
 doesn't abuse her like her ex-husband.
 He helped her after her surgery.
 This is coming from a 13 ~~old~~ year old's
 point of view. He has lived in my house
 since the middle of July. He has never
 did anything to hurt anyone that
 I know of. He has ~~not~~ treated me and
 every one else in this house with
 the upmost ~~kind~~ kindness and respect. He has
 never done anything to me wrong so
 why bring up his past now. He
 has always treated me like I was
 somebody. So now I'm paying him
 back with everything I can. I'll do
 anything to help ^{that} him out.

(11-13)

M [redacted]

(11-20-01)

R [redacted]

[redacted]

04 -GS-02- 1333

11-22-01

To Whom it may concern, My Name is K.
 M. B. I am writing this letter on Beh.
 of Noel Gray Jr. He is a very kind and
 loving and talented person, my life is
 to have him back home with me and
 my mom where he belongs. He has never
 done anything bad to me or my mom. He
 loves me and my mom with all his heart
 and wants to marry my mom and be
 a Dad to me. please see it in your heart
 to let him come home so we can be happy
 again. please I'm begging you.

K. M. B.

Mc and my family
 need his help!!!

-GS-02- 1333

04

~~(11-22-01)~~~~-11-22-01~~~~(11-22-01)~~~~11-22-01~~~~(11-22-01)~~

11-22-01 GS-02 1333

04

To whom it may concern,
 This letter is being written on
 behalf of Noel Gray Jr. Noel is
 a very wonderful man. He has
 helped me thru so much, my
 surgeries, my family life. My mother
 is going blind and my dad has
 alzheimers. It's been really hard
 without him. I recently had my 3rd
 back surgery. I desperately need him
 home with us. I need his help.
 Please see it in your heart to help
 me get him home where he belongs.
 I love him with all my heart.
 I need him home. Please. I'm begging
 you for your help.

Thank You

[REDACTED]

[REDACTED]

MOTHER OF ALLEGED VICTIM

13

[REDACTED]

[REDACTED]

[REDACTED]

BOBO THE CLOWN

[REDACTED]

Since 1989

Aiken, SC. 29803 (803) 612-1361

I, Mike Williams, Owner + operator of Bobo the Clown, have a job waiting for Noel Elzy as my assistant when he gets back home. It will be steady employment. He has been training under me for three months now. He will be a big asset for my company.

Yours Truly

Mike Williams

11-30-01

04 -GS-02- 1333

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DOCTORS
HOSPITAL

3651 Wheeler Road
Augusta, Georgia 30909-6426

708-211-8822

NAME:

L. L. B.

DATE:

12/17/01

ADDRESS:

AGE:

Rx To. George Bush-

Mr. L. L. B. has a cerebral
disorder. Noel Gray has been
helping Mr. Brown prep management,
& holding on surgery until Mr. Gray returns for
care. Please call me if any questions!

Label ☐

Generic Substitution permitted

Do Not Label ☐

Dispense as written

Refill 1 2 3 4 5 6

PRN

GS-010 Rev. 10/97

DEA NO.

77-116-11
12/17/01

G.B. (C.I.T.)

Asap!!

L. L. B.

'04

GS-02- 1333

④

Noel Gray

Docket No.: 1:03-263

Gray waived attorney representation in this matter. On January 26, 2001, a probation warrant was issued for the defendant for technical violations. The offender stipulated to the violations and was given 120 days custody at the Glynn County Detention Center, Brunswick, Georgia, and ordered to complete a mental health treatment program at Georgia Regional Hospital, Savannah, Georgia. Gray was continued on active probation supervision upon his release.

35.	03/21/02 (age 31)	Failure to Register as a Sex Offender Superior Court Dougherty County, GA Docket No.: 02R404	<u>03/26/02</u> 12 months confinement suspended upon transportation to the Brunswick Hospital. Banished from Dougherty County, GA.	4A1.2(a)(3)

The defendant waived attorney representation and entered a plea of guilty. Records indicated on March 28, 2001, the defendant failed to register with the Dougherty County, Georgia, Sheriff's Office as a sex offender as required by law. Records also indicated the defendant was notified by certified letter to report to the Dougherty County Sheriff's Records Office for address verification no later than March 28, 2001. Since the sentence was suspended, the defendant did not enter a prison facility based on this offense.

Criminal History Computation

36. The criminal convictions above result in a subtotal criminal history score of 4.
37. At the time the instant offense was committed, the defendant was on state probation in Brunswick, Georgia, for a conviction received on January 25, 1990. Pursuant to U.S.S.G. § 4A1.1(d), two points are added.
38. The total of the criminal history points is 6. According to the sentencing table at U.S.S.G. Chapter 5, Part A, 6 criminal history points establish a criminal history category of III.

Other Criminal Conduct

39. None.

Pending Charges

40. None.

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA
V.S.
Noel Eugene Gray

* DOCKET NO.: 8900691
* OFFENSE(S): Agg Child
Molestation

MOTION TO AMEND PROBATED SENTENCE

WHEREAS, this Court did sentence the above named defendant on the 25th day of January, 1990, as follows: Ten (10) years to serve, five (5) years probation.

WHEREAS the defendant violated the terms and conditions of probation as follows: Alleged technical violations-Failure to report to assigned probation officer as directed, failure to pay on restitution as directed, and failure to notify probation officer of address change.

WHEREAS the defendant waives his right to a Revocation Hearing and his right to legal counsel at said hearing and admits to the above cited violations.

WHEREFORE the defendant and the Probation Office Respectfully request the Court to amend the defendant's probated sentence to provide for the following additional conditions(s): Mr. Gray will serve a minimum of one hundred twenty (120) days in the Glynn County Detention Center, credit for time already served since 27 November 01. In addition Mr. Gray, will enter in to and successfully complete a mental health treatment program at the Savannah Georgia Regional Hospital. The duration of the program will be determined by the treatment provider(s). Mr. Gray will remain in the GCDC until bed space is available at the facility. Mr. Gray will continue on active probation supervision upon release.

SO MOVED this 14th day of March, 2002.

Noel Gray
Defendant

Thomas H. Moree
Thomas H. Moree
Probation Officer II
Brunswick Judicial Circuit

ORDER

This Court having read and considered the Motion to Amend Probated Sentence, it is hereby GRANTED.

SO ORDERED, this 14th day of March, 2002.

Stephen G. Scarlett
Honorable Stephen G. Scarlett
Judge, Superior Court
Brunswick Judicial Circuit

FILED
MAR 20 2002
CLERK OF SUPERIOR COURT
GLYNN COUNTY, GEORGIA

The above named Probationer is to be released from the GCDC upon receipt of this signed Modification Order by Judge Scarlett.

GREENLEAF CENTER, INC.

VALDOSTA, GEORGIA

PSYCHIATRIC EVALUATION

CONFIDENTIAL AND PRIVILEGED
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NOT FOR PUBLICATION - NOT TO BE USED
BY PATIENTS OR OTHERS

GRAY, Noel (Junior)

August 21, 1986

Hospital #00939

Medrano

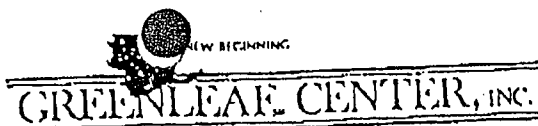
Unit: C & A

Noel (Junior, as he likes to be called), was seen for Psychiatric Evaluation along with his court worker, Mr. Terry Smith. Junior was referred by the court because of continuous behavior problems which have warranted several hospitalizations, a serious suicidal attempt, and Junior repeatedly running away from home. Reportedly, he has gotten along in the different settings away from home, but his behavior deteriorates markedly at home and he has also presented serious disruptive behavior in school.

I reviewed the material contained in Junior's folder and I noted that a previous Psychological Examination places him in the high level of intellectual functioning, with the performance score being higher than the verbal one. Evidence of a possible mild learning disorder could be proposed. This year he has been at the regional center in Savannah twice. He was placed on medications such as Navane and Mellaril to control his erratic and unpredictable behavior. Perhaps the most serious problem is a rather poor family situation, with Junior not being able to get along with the parents, particularly with the mother, with subsequent parental inability to control his behavior. Mr. Smith indicated that the more time he spends with Junior, the more impressed he is with his degree of awareness and ability to express himself.

In the Psychiatric Examination, Junior presented himself as an overweight adolescent with black, short hair, and a bland facial expression. As soon as he was approached, however, I noted an eagerness to please and a simple sense of humor. He had good eye contact. The mood revealed feelings of helplessness and a sense of futility toward life. Sensorium was intact. The thought process seemed to have a concrete quality and verbally he appeared somewhat limited. The thought content revolved around the problems he has had at home with the father. He explained that what upsets him the most is the fact that the father is an alcoholic and frequently hits the mother. It is on these occasions when he chooses to run away from home, as he is unable to cope with such emotional stress. No evidence of serious thinking disorder was elicited.

The patient expressed very negative feelings about school. He related that in the last year he was absent from school most of the time. Regardless of the efforts of his mother and the school people, he always managed to leave the school grounds and return home, where he would sleep most of the day. He doesn't think that he needs to finish school and he is interested in getting a job instead. He also indicated to have problems with peers. Concerning his experience in the regional hospital, he said to have had problems getting along with peers, and being bored most of the time for lack of appropriate activities. He admitted to have had a lot of problems with the mother, in that he has been most negativistic with her, although he doesn't know exactly why. Interestingly, he appeared quite pleased with coming to the Center, manifested by continuous questions about activities and comments about liking to stay at the Center for a long time.



VALDOSTA, GEORGIA

PSYCHIATRIC EVALUATION

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AGAINST PATIENT'S INTEREST

GRAY, Noel (Junior)

Page 2

Hospital #00939

Medrano

Unit: C & A

In summary, Junior seems to present the characteristics of a partially neglected child living in a rather unstable family environment. Indications of attention deficit disorder were noted, particularly in terms of poor concentration, distractibility, low frustration tolerance, impulsive behavior, and mild learning problems. There is a combination of a rather primitive personality with indications of strong inadequate feelings, low self-image, and difficulty expressing appropriately hostile aggressive impulses. He presented a tendency to distort the truth, which was interpreted as a coping maneuver to deal with a rather disturbing and empty reality. Hospitalization was recommended because of an apparent deterioration of the overall function, inability to allow the parents to control him, and a strong possibility that he should be separated from the family if he is going to survive emotionally.

Diagnosis: Adjustment disorder with mixed emotional and conduct features.

Secondary diagnosis: Attention deficit disorder with mild hyperactivity.

Tentative duration of treatment: About four weeks.

Disposition: Patient should be promptly integrated into the Level II of the Adolescent Program. Particular emphasis should be made concerning compliance with the Unit rules and policies. He will be given Nursing, Activities, Educational, and Nutritional Assessments. Richard Powers, PhD, will be doing the Psychological Evaluation. The first phase of his treatment will concern his behavior and we might consider use of medication to enhance organizational thinking and academic performance. We will keep in touch regularly with Mr. Terry Smith, particularly to implement an appropriate discharge planning period.

Peter P. Medrano, M.D.

D-08/25/86

T-08/26/86

jb

04 GS-02-1377

GREENLEAF CENTER, INC.

A REGIONAL PSYCHIATRIC AND CHEMICAL DEPENDENCY HOSPITAL

209 POPELVEY DRIVE • VALDOSTA, GEORGIA 31602 • (919) 347-4137

ADMISSION HISTORY AND PHYSICAL

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St. , Noel

Adm. 8/21/86

Hosp. #00939

Light

Unit: Adolescent

This is a 16-year-old caucasian male was admitted to Greenleaf Center 8/21/86 under the service of Dr. Medrano. The following history is obtained from the patient.

He states he was admitted to Greenleaf Center because of family problems. He states he is having trouble getting along with his step-father, because of these problems he was admitted here for counseling.

He states he has had several problems in the past which include admissions to psychiatric institutions in Chicago and at the Georgia Regional Center. The Chicago admission was about one year ago and the Georgia Regional one approximately 5 or 6 months ago. He was also admitted to a hospital in Brunswick some 2 or 3 months ago for management of an overdose of Mellaril. He states that the overdose occurred because he was sleep walking and was unaware that he had ingested Mellaril which was his present time medication at that point. Since then he states he has not taken any particular medications.

Noel indicates that he has been treated in-center at a correctional institute for about one year for management of drug abuse and breaking and entering. That therapy apparently occurred more than one year ago.

Presently, he states that from a physical standpoint he is feeling fairly well. He has had some discomfort in his left chest area when he coughs or sneezes. That has been present for about 2 weeks. There is no sputum when he coughs. He states that he has some constant discomfort in his left eye which he attributes to a lazy left eye. He states that diagnosis was established by his father who is an eye specialist. He has worn corrective lenses for many years but not for the past 2 years. He states 2 years ago he was in a fist fight, his glasses were broken and he has not had them replaced.

Otherwise he states he has been quite healthy in the past. There is a history of some recent trauma to his right hand which occurred when he was upset with his father, struck a plate and lacerated the hand.

He has had no previous operations. No previous accidents. No seizures.

ALLERGIES: None known.

PRESENT TIME MEDICATIONS: None.

PERSONAL HISTORY: He stopped going to school in grade 9. His favorite activity is riding a motorbike. His aspirations are to secure a job and work either as a mechanic, to do roofing, or to cut wood. He states that he does not ingest alcoholics now and does not take drugs. In the past, he used marijuana, LSD, and PCP. He has smoked cigarettes for 10 years and smokes approximately 20 cigarettes per day. He has had a steady girlfriend for 3 years.

His mother is age 35. She is apparently in good health. His present time stepdad number 2 is said to have a pacemaker and a wire device holding his knee together. Stepdad number 1 apparently is in good health. His biological father died about one year ago. His mother and father were divorced about 5 or 6 years ago. It is believed that his father died with myocardial infarction. He has a 14-year-old male sibling and a 9-year-old female sibling who are in good health. He states that his present

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ight

his step-father drinks alcoholic beverages.

On exam he seems to be somewhat withdrawn and laughs inappropriately. His admission vitals temperature 99, pulse 90, respiratory rate 20, blood pressure 120/76, height 5 foot 8 inches, weight 190 pounds.

HEENT: He is normocephalic. Ear drums and canals unremarkable. Pupils symmetrical and reactive. Fundi are unremarkable. Nares are clear. Oral pharynx is unremarkable.

ECK: Supple. No masses.

HEENT: Clear. Good bilateral air entry.

CARDIOVASCULAR SYSTEM: Heart regular. No murmurs. Good peripheral pulses. No edema.

ABDOMEN: Soft, protuberant, no masses or organomegaly.

EXTERNAL GENITALIA: Stage IV male.

KIN: He has non-pigmented striae over the lower abdomen and upper thighs. He has a café au lait spot over the right lateral chest area. He has a well healed scar over the MP joints of his right hand. There are some acneiform lesions about his face.

MUSCULOSKELETAL SYSTEM: He is somewhat obese. No gross deformities are noted.

CENTRAL NERVOUS SYSTEM: No meningeal or localizing findings. His peripheral sensation intact. His hearing is grossly normal.

Generally, he appears fairly healthy. He is somewhat obese. I could not detect any gross abnormality of his left eye, but visual screening is necessary because of his past history of "lazy eye." I have discussed with him the possibility of losing some sight during his hospital stay but he does not seem particularly interested in pursuing that action. I therefore recommend regular activities and appropriate supervision of his increases in physical activities during his hospital stay.

:8/21/86

:8/22/86

gb

Gerald S. Light, M.D.

1333
GS-02
04

50

VALDOSTA, GEORGIA

DISCHARGE SUMMARY

CONFIDENTIAL AND PRIVILEGED
FOR PROFESSIONAL PURPOSES ONLY
NOT FOR PUBLICATION - NOT TO BE USED
AGAINST PATIENTS INTEREST

GRAY, Noel

Admitted: 08/21/86
Discharged: 09/25/86

Hospital #00939

Medano

Unit: C & A

Noel, "Junior", as he likes to be called, was referred by the Ware County Judicial Circuit for inpatient treatment because of continued behavioral problems which have warranted several hospitalizations in the past, including a serious suicidal attempt, repeatedly running away from home, and extreme dislike for school.

In the initial assessment, Junior presented characteristics of a partially neglected child being brought up in an unstable family environment. Indications of an attention deficit disorder were noted, particularly in terms of poor concentration, distractibility, low frustration tolerance, impulsive behavior, and mild learning problems. A combination of a primitive personality with indications of strong inadequate feelings, a low self-image, and difficulty in expressing appropriately his hostile and aggressive impulses were noted. He also presented a tendency to distort the truth when dealing with what appeared to be to him a disturbing and distressing reality.

In the Psychiatric Examination, Junior presented himself as an overweight, friendly, eager-to-please adolescent with a simple sense of humor. He had good eye contact. The mood revealed feelings of helplessness and a sense of futility toward life. The thought process seemed to have a concrete quality and he appeared to be verbally somewhat limited. His affect was somewhat bland, suggesting an institutionalization syndrome. The thought content revolved around the problems he has had at home with the step-father. He explained that what upset him the most is that the step-father, who is an alcoholic, is constantly physically abusing the mother. It is on these occasions when he chooses to run away from home, as he is unable to cope with such emotional stress. Negative feelings about school were also expressed.

The course of hospitalization was characterized by over-activity, generally diffused behavior, and a strong tendency to tell fantastic stories. The behavior could be best described as being primitive in that he lacked social refinement and an apparent lack of exposure to activities such as eating in restaurants, where a degree of sophistication is expected. Often he did make intentional vulgar remarks in front of female staff. Much immaturity was observed at times, accompanied by marked moodiness. However, when handled with firmness and consistency, he usually complied. We had several contacts with the court and a meeting with the different agencies involved in the management of his case. Although the plans initially were to keep Junior in the hospital for four weeks, an extension was requested to work on the discharge plans, which included his return to school and living away from home.

The methods of treatment were individual and group therapies along with attendance to the school program, therapeutic activities, and life skills classes. A complete Physical Examination done by Gerald S. Light, M.D., Pediatrician, revealed Junior to be somewhat obese but otherwise in good physical health. His vision is poor and he is in need of corrective lenses. He had broken his lenses some time ago in a fight and the need to replace them was quite evident. He was seen for a Psychological Evaluation by Richard Powers, Ph.D. On the intelligence test, Junior scored

5+

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GREENLEAF CENTER, INC.

VALDOSTA, GEORGIA

DISCHARGE SUMMARY

CONFIDENTIAL AND PRIVILEGED
FOR PROFESSIONAL PURPOSES ONLY
NOT FOR PUBLICATION - NOT TO BE USED
WITHOUT PATIENT'S CONSENT

GRAY, Noel

Page 2

Hospital #00939

Medrano

Unit: C & A

on the borderline of intellectual functioning. The Bender-Gestalt test was performed in a very sloppy fashion. In the personality test, Dr. Powers saw him with a potential to psychological decompensation and acting out disturbance. He found Junior having problems with trust and with conflicts of hostility. He has difficulty expressing his emotions in adaptive fashion. He is over-anxious, nervous, and emotionally labile.

The overall therapeutic approach was reality-oriented; that is, making Junior aware of his inappropriate behavior and providing support when he attempted to correct it. His tendency to tell fantastic stories was dealt with by confrontation and simple interpretation. In activity therapy, he was given an opportunity to succeed in completing projects, especially art work, for which he seemed to have some talent. In school, his energies were redirected along the lines of organization and self-motivation. Activities away from the Center were encouraged to increase appropriate social experiences. Medication in the form of Ritalin, 5 mg twice a day, was administered to handle the driven and diffused behavior with reported good results.

The prognosis in this case is guarded to fair, considering the nature of Junior's problems and the length of time they have been present, plus the fact that he doesn't have a good family to support him. The court was made aware that he would do well in a place where someone, particularly an adult, would take an interest in him and spend some time doing things with him. Returning to school is going to be difficult, but it can be accomplished if emphasis is placed on obtaining small successful experiences rather than expecting him to function at grade level. He is going to need follow-up therapy, which will be provided by the local Mental Health Clinic. He was discharged to Mr. Terry Smith, a court worker, who took him to a foster home. A prescription for Ritalin, 5 mg to be given twice daily, was dispensed.

Admitting diagnosis: Conduct disorder. Socialized, aggressive.

Discharge diagnosis: Adjustment disorder mixed with emotional and behavioral disturbances.



Peter P. Medrano, M.D.

D-10/10/86

T-10/13/86

jb

1333

GS-02

04

52

Noel Gray
Docket No.: 1:03-263

time of his arrest. When the pretrial services officer inquired as to why the defendant relocated to the Eastern District of Kentucky, the defendant responded, "...this is just where I wound out." The defendant reported he resided with Ms. Gilb for the entire time he lived in the northern Kentucky area.

47. According to the defendant, he was born in the state of Wyoming and moved to Illinois shortly after his birth. The defendant reportedly remained in Mount Vernon, Illinois, until age 15, when he moved to Brunswick, Georgia, until age 17. At age 19, he was convicted of one count of Aggravated Child Molestation in Brunswick, Georgia, and spent approximately 10 years in the Georgia Department of Corrections. Subsequent to his release, he resided in Albany, Georgia, for approximately one year. He then relocated to Aiken, South Carolina, where he remained for two years before moving to Covington, Kentucky.

Physical Condition

5'11"

48. The defendant stands 5'11" tall and weighs 176 pounds. He has brown eyes and dark brown hair. The defendant has several tattoos as follows: 1) pictures of crosses and a moon on his right forearm; 2) pictures of an eagle, globe, and anchor, as well as "USMC" on his left upper arm; and 3) a dragon head on his upper right arm. In addition, the defendant has two scars on his right shoulder.
49. The defendant related he is healthy and has no history of health problems. He indicated at age 29 he broke his arm in a go-cart accident. He also stated that, despite years of physical abuse by his mother, he was never hospitalized.

Mental and Emotional Health

50. The defendant reported he has been in mental health treatment since the age of 13. He advised he received his first psychological evaluation after running away from home. At the time, he took an overdose of medication due to depression brought on by his mother's alcohol and physical abuse. According to the defendant, he was subsequently diagnosed with bi-polar disorder and schizophrenia and was prescribed Mellaril and Triavil. While the defendant indicated he is supposed to take his medication on a daily basis, he stopped taking medication several months ago because he could no longer afford them.
51. The defendant also reported he underwent a mental health evaluation while at the Department of Corrections in Georgia. According to information received from the Georgia Department of Resources, the defendant was admitted to the Georgia Regional Hospital on an inpatient basis from April 28, 1986 until June 18, 1986. No further information was available regarding this admission.

Noel Gray

Docket No.: 1:03-263

52. According to information received from the Georgia Department of Resources, the defendant received an evaluation at the Georgia Regional Hospital on March 27, 2002, pursuant to a court order on March 14, 2003. Records reflect he was diagnosed as being depressed. He was not admitted because he did not meet the criteria for admission.
53. During the interview with this officer, the defendant was questioned about the Aggravated Child Molestation charge for which he was convicted in Georgia in 1990. The defendant vehemently denied abusing the victim and reported the victim's mother fabricated the whole account. This officer advised the defendant that, based upon his prior conviction involving a minor, his association with other minors would be closely monitored.

Substance Abuse

54. According to the defendant, he was introduced to alcoholic beverages by his father when he was 10 years old. The defendant reported he consumed alcohol whenever he had access to it and last consumed alcohol prior to this arrest. The defendant advised he drank approximately two beers per weekend.
55. The defendant indicated his father introduced him to marijuana when he was 12 years old. He described his use as occasional or "every blue moon." He reported his last use occurred approximately 10 years ago.

Education and Vocational Skills

56. The defendant reported he graduated from Brantley County High School in Hortense, Georgia, in 1988. Records obtained from that school indicated the defendant withdrew from Brantley County High School on February 10, 1987, and transferred to Emanuel Christian School in Brunswick, Georgia. At the time of his withdrawal from school, the defendant was in the ninth grade. No documents were provided to verify this defendant had graduated high school.

Employment Record

57. The defendant has been incarcerated since April 17, 2003.
58. According to personnel records from Brookhaven Stables, the defendant was never employed at this location, but only performed a few odd jobs sometime in March 2003. The manager indicated the defendant was seeking employment, but did not have transportation.
59. The defendant spent 10 years at the Georgia Department of Corrections.

(11-11)

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-03-02-
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STATE OF SOUTH CAROLINA
COUNTY OF Coker
STATE OF SOUTH CAROLINA
David E. Gray
Name of Defendant

Ticket or Warrant No. I-115074
IN THE () COURT OF GENERAL SESSIONS
() MAGISTRATE'S COURT
(X) MUNICIPAL COURT OF New Ellenton

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE
(Bail Proceeding Form 2)

Offense Charged: Simple Larceny
At a bail proceeding conducted by undersigned judge, for the defendant named above, it was determined by the court (check one or both):
☒ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☒ The release of the defendant on recognizance will result in an unreasonable danger to the community.
This determination was based upon the following findings of fact:

DEFENDANT UNDERSTANDS HIS/HER
RESPONSIBILITY TO CONTACT COURT
FOR DATE AND TIME HE/SHE
SHALL APPEAR.

[Considerations: Nature and circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]
THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check one):

CASH IN LIEU OF BOND
☐ The defendant, acknowledging himself to be indebted to the State of South Carolina, deposits \$_____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND
☐ The defendant acknowledges himself to be indebted to the State of South Carolina in the sum of \$_____, his release to be obtained by payment to the court of _____ (%) of this bond in cash, this amount being \$_____. The defendant will be obligated to the State in the full amount of \$_____ such sum to be levied on his real and personal property for the use of the State, should he fail to perform the conditions of this Order.

APPEARANCE RECOGNIZANCE WITH SURETY.
☒ The defendant will provide good and sufficient surety approved in the court, in the form set forth on the reverse side, acknowledging an indebtedness to the State in the amount of \$ 10,000.00.

3. That the defendant shall appear at (check one):
☐ the term of the court of general sessions beginning on [Date:] _____ at [Time:] _____ o'clock, _____ M., at [Place:] _____ and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.
☒ the session of magistrate/municipal (circle one) court beginning on [Date:] 7-30-02 at [Time:] _____ o'clock, _____ M., at [Place:] 1078 Madison St, New Ellenton, SC 29801. If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Initials of Defendant N.G.

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described on the reverse side, which are marked.

Dona D. Williamson
Signature of Judge

7-30-02
Date

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, including any conditions included on the reverse side of this Order, a warrant for my arrest will be issued.
I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.
It has been explained to me that if I fail to appear before the court as required, an additional criminal charge will be instituted against me. If the failure to appear is in connection with a felony charge, or while awaiting sentence, or pending appeal or certiorari after conviction, the penalty is a fine of not more than \$5,000 or imprisonment for not more than five years, or both; if I fail to appear in connection with a misdemeanor charge, the penalty is a fine of not more than \$1,000 or imprisonment for not more than one year, or both.
I acknowledge the receipt of a copy of this Order and understand the conditions of my release and the penalties applicable to me in the event I violate any condition of the Order or fail to appear as required.

1078 Madison Ave.
Address
Coker, SC 29801
City/State/Zip

David E. Gray
Signature of Defendant
7-30-02
Date

Social Security Number/Telephone No. _____

(11-20)

Attorney Representing Accused (If known) _____

SPECIAL CONDITIONS OF RELEASE

- a. ☐ Placement in custody. The defendant is placed in the custody of:

Address _____ City _____ State/Zip _____ Telephone _____
 Name of person or organization _____
 who agrees (1) to supervise the defendant in accordance with conditions set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

Signature of Custodian (If Appointed) _____

Date _____

- b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

- c. ☐ Part-time Release. The defendant will be released from custody from _____ o'clock, _____ M. to _____ o'clock, _____ M. on _____ at _____ on condition that he return to the custody of _____ as designated.

- d. ☐ Other Conditions. The defendant will comply with the following other conditions of release:

APPEARANCE RECOGNIZANCE WITH SURETY

On the 30 day of July, 2002, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$10,000.00 such sum to be levied on his real and personal property for the use of the State, if the within named defendant shall fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

Li M. B. [redacted]
 Name of Surety (Printed or Typed)

[redacted]
 Address of Surety

Aiken SC 29803
 City/State/Zip

[redacted]
 Signature of Surety

[redacted]
 Signature of Judge

7-30-02
 Date

Form Approved by
 S.C. Attorney General
 Section 17-15-40
 March 4, 2000

(11-21)

04 GS-02-1355

(15) 151

AGENCY I. D.
020000

JUVENILE SUPPLEMENTARY REPORT

CASE NUMBER

NCIC

02-35498

☐ ORIGINAL REPORT ☒ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY Page 1 of 1 Pages
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED

Incident Type	SEXUAL ASSAULT	Date:	9-11-02	Time	1320
Victim's Name	JUVENILE	Subject Name:	GRAY, NOEL EUGENE		

On 9-11-02 I/O received this case that states an anonymous caller reported that the subject, Gray, sexually assaulted the juvenile female victim.

On 9-11-02 at approximately 1320 hours, I/O met with the juvenile victim to conduct an interview with victim regarding the allegations. The victim stated that Gray has never touched her in any inappropriate manner and has never made any comments to her in a sexual nature. The victim states that she is never alone with Gray due to her mother being disabled and is always at home. The victim states that she has a good relationship with Gray, described as a father-daughter relationship.

On 9-11-02 at approximately 1510 hours, I/O met with the victim's mother, L. Br. to advise her of the nature of the allegations. Br. denied that any such activity has taken place between Gray and the victim. Br. states that she is a stay at home mom due to her being on disability.

I/O closes case as unfounded due to the information given by the victim and L. Br.

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SUBJECT IDENTIFIED YES ☒ NO ☐		SUBJECT LOCATED YES ☒ NO ☐		☐ ACTIVE ☐ ADM CLOSED ☒ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 & OVER		☐ EX-CLEARED UNDER 18 ☐ EX-CLEARED 18 & OVER			
☐ For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Extradition Denied ☐ Victim Declines Prosecution ☐ Juvenile No Custody											
REPORTING OFFICER		DATE		UNIT #		APPROVING OFFICER		DATE		UNIT #	
BLEVINS		9-13-02		4163		LT. MARK HAMMOND		09/13/02		4442	
Follow up Investigation ☐ Yes ☒ No						Officer:					

AGENCY I.D.
SC0020000

SUPPLEMENTAL INCIDENT REPORT

02-35498

INQ. EN

☐ ORIGINAL
REPORT

☐ MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT

☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY

☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 of 1 PAGE

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	
	☒ VICTIM # 1	B. [REDACTED] C. [REDACTED]		AQ			Q	W	F	13		
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	☐ RUNAWAY	Attends N.E. Middle School										
☐ WANTED	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE		
☐ WARRANT	1 [REDACTED] R.		New Ellenton		SC	16034						
☐ ARREST	☐ VICTIM NO. [REDACTED] VISIBLE INJURY: ☐ NO ☐ YES		COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT.		☐ ALONE			
☐ JAIL	EXPLAIN:		☐ NO ☐ YES		DRUGS: ☐ NO ☐ YES TYPE:		☐ UNK.		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSIST	
☐ SUMMONS	☐ SUBJECT NO. [REDACTED] USING ALCOHOL: ☐ NO ☐ YES		USING DRUGS: ☐ NO ☐ YES → TYPE:		☐ UNK.							

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	
	☐ VICTIM #						J	S	O			
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	☐ RUNAWAY											
☐ WANTED	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE		
☐ WARRANT												
☐ ARREST	☐ VICTIM NO. [REDACTED] VISIBLE INJURY: ☐ NO ☐ YES		COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT.		☐ ALONE			
☐ JAIL	EXPLAIN:		☐ NO ☐ YES		DRUGS: ☐ NO ☐ YES TYPE:		☐ UNK.		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSIST	
☐ SUMMONS	☐ SUBJECT NO. [REDACTED] USING ALCOHOL: ☐ NO ☐ YES		USING DRUGS: ☐ NO ☐ YES → TYPE:		☐ UNK.							

VEH. / GUN / ETC. 1	STATUS		TYPE	VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE					
	☐ RECOVERED	☐ GUN		SERIAL AND/OR OWNER APPLIED NO.		STATE	
	☐ FOUND	☐ BOAT		YEAR OF REGISTRATION		YEAR OF EXPIRATION	YEAR
	☐ TOWED	☐ LICENSE PLATE		MODEL		STYLE	COLOR
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS		MFG NO.		DENOMINATION	ISSUER
	☐ VICTIM	☐ ARTICLE		MISCELLANEOUS			

PROPERTY EST.	TYPE (GROUP)						TOTAL VALUE
	STOLEN						
	DAMAGED						
	BURNED						
	RECOVERED						
SEIZED							

ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18	
	☐ YES ☐ NO		☐ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY									
	REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER				DATE	UNIT NUMBER	
Jim Tim Randall	9/11/12	4122	Lt. M. Hammons				9/11/12	4442		
			FOLLOW-UP INVESTIGATION			OFFICER				
			X YES NO ☐ BLEVINS							

-GS02-1333

[illegible]

AIKEN COUNTY SHERIFF'S OFFICE

INTERVIEW WORKSHEET

(18)

CASE NUMBER 02-35498	DATE 9-11-02	TIME STARTED 1320	TIME ENDED 1415
LOCATION OF INTERVIEW NEWE ELLENTO MIDDLE SCHOOL		CHECK APPROPRIATE BOX ☒ VICTIM ☐ WITNESS ☐ SUBJECT	STATEMENT OBTAINED ☐ YES ☒ NO

INDIVIDUAL DATA

LAST NAME BROWN			FIRST NAME C			MIDDLE NAME MA		
SOCIAL SECURITY NUMBER			OTHER ID NUMBER (DU/SCID/ETC.)			DOB [REDACTED]		
						POB (CITY & STATE) AIKEN, SC		
SEX F	RACE W	HEIGHT 502	WEIGHT 132	HAIR COLOR BRO	EYES COLOR BLU	CITIZENSHIP US	EDUCATION 7TH	MARITAL NO
						PRIOR RECORD NO		
ALIAS/NICKNAME(S)			ALIAS/NICKNAME(S)			PHYSICAL MARKS/SCARS/TATTOOS		
STREET ADDRESS [REDACTED]			CITY AIKEN			STATE SC	ZIP CODE 29803	PHONE NUMBER [REDACTED]
EMPLOYER STUDENT/N. ELL. MID.			ADDRESS WHISKEY RD, AIKEN, SC 29803					
VEHICLE MAKE			YEAR	MODEL	BODY STYLE	COLOR	LICENSE (STATE & NUMBER)	

FAMILY MEMBER DATA

FAMILY RELATIONSHIP MOTHER	LAST NAME BROWN	FIRST NAME LINDA	MIDDLE NAME
STREET ADDRESS [REDACTED]		CITY AIKEN	STATE SC
		ZIP CODE 29803	PHONE NUMBER [REDACTED]

NOTES

ORAL INTERVIEW.
 NEVER ALONE WITH GRAY.
 LIVING WITH GRAY APPROXIMATELY ONE YEAR.
 NO INAPPROPRIATE TOUCHING BY GRAY.
 TREATS ME LIKE A DAUGHTER.
 MOTHER IS ALWAYS HOME/ DISABLED.

AIKEN COUNTY SHERIFF'S OFFICE

(19)

INTERVIEW WORKSHEET

CASE NUMBER 02-35498		DATE 9-11-02		TIME STARTED 1510		TIME ENDED 1530	
LOCATION OF INTERVIEW T. AIKEN, SC 29803				CHECK APPROPRIATE BOX ☐ VICTIM ☒ WITNESS ☐ SUBJECT		STATEMENT OBTAINED ☐ YES ☒ NO	
INDIVIDUAL DATA							
LAST NAME BR			FIRST NAME L			MIDDLE NAME	
SOCIAL SECURITY NUMBER [REDACTED]		OTHER ID NUMBER (DU/SCID/ETC.)		DOB [REDACTED] (10)		POB (CITY & STATE) AIKEN, SC	
SEX F	RACE W	HEIGHT 506	WEIGHT 180	HAIR COLOR BRO	EYES COLOR BLU	CITIZENSHIP US	EDUCATION 7TH
ALIAS/NICKNAME(S)		ALIAS/NICKNAME(S)		PHYSICAL MARKS/SCARS/TATTOOS			
STREET ADDRESS			CITY AIKEN		STATE SC	ZIP CODE 29803	PHONE NUMBER [REDACTED]
EMPLOYER DISABILITY			ADDRESS				PHONE NUMBER
VEHICLE MAKE		YEAR	MODEL	BODY STYLE	COLOR	LICENSE (STATE & NUMBER)	

FAMILY MEMBER DATA

FAMILY RELATIONSHIP	LAST NAME	FIRST NAME	MIDDLE NAME
STREET ADDRESS		CITY	STATE
		ZIP CODE	PHONE NUMBER

NOTES

ORAL INTERVIEW.
 ALWAYS HOME, NEVER LEAVES CHILDREN ALONE.
 GRAY HAS NEVER TOUCHED OR DONE ANYTHING INAPPROPRIATELY TO THE CHILDREN.

(15)

Noel Gray

Docket No.: 1:03-263

9. On September 12, 2002, Investigator Tim Randall with the Aiken County Sheriff's Office, and Investigator Hugh Ray with the New Ellenton Police Department, interviewed the defendant in connection with a burglary. Prior to the commencement of the interview, the defendant was read his Miranda rights which he waived. The defendant admitted he was in possession of a rifle and led the law enforcement officers to a rusted car body in his backyard. The defendant showed the investigators the rifle he had hidden under the car. Investigator Ray advised the defendant he was a convicted felon and was prohibited from possessing a firearm. The defendant acknowledged he was aware he was a prohibited person and indicated he was keeping the firearm for his father. The law enforcement officers located a Universal M-1 carbine, serial number 317222, that was seized as evidence. (trw)
10. During the course of the investigation, law enforcement officers obtained documents from the Glynn County (Georgia) Clerk of Court, which reflected the defendant had been convicted of one count of Aggravated Child Molestation in Glynn Superior Court, Brunswick, Georgia, on January 25, 1990. The defendant was sentenced to 10 years imprisonment to be followed by a five (5) year term of probation.
11. In September 2002, Special Agent J. Richard Brown requested an interstate nexus statement from Special Agent Raymond Glover. According to Special Agent Glover, the Universal Firearm, model 1000 military, .30 carbine caliber, serial number 317222, was made in Jacksonville, Arkansas, and imported out of Hialeah, Florida. Based on that information, Special Agent Brown concluded the firearm had traveled sometime in interstate commerce to have arrived in the state of South Carolina.
12. On September 24, 2002, Special Agent Brown test fired the Universal Firearm and concluded the firearm functioned as designed. The test fire took place in the presence of Investigator Tim Randall.
13. On October 20, 2002, Special Agent Brown spoke with Investigator Tom Moore of the Brunswick Office of the Department of Pardon and Parole. According to Mr. Moore, as of that date, the defendant had not received a pardon.
14. In October 2002, Lt. Joseph E. Means, with the South Carolina Law Enforcement Division (SLED) compared six (6) photographed copies of fingerprints from the FBI on the defendant that were provided by ATF. In his expert opinion, those 10-print cards were taken from the same individual.
15. In summary, on September 13, 2002, the defendant was in possession of a firearm after having been convicted of one count of Aggravated Child Molestation, for which he received a sentence of 10 years imprisonment.

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AIKEN COUNTY SHERIFF'S OFFICE

INTERVIEW WORKSHEET

CASE NUMBER 02-35498		DATE 9-30-02		TIME STARTED 1605		TIME ENDED 1655	
LOCATION OF INTERVIEW 420 HAMPTON AVE AIKEN, SC 29801				CHECK APPROPRIATE BOX ☒ VICTIM ☐ WITNESS ☐ SUBJECT		STATEMENT OBTAINED ☐ YES ☒ NO	
INDIVIDUAL DATA							
LAST NAME BR			FIRST NAME K			MIDDLE NAME MA	
SOCIAL SECURITY NUMBER		OTHER ID NUMBER (DUSCID/ETC.)		DOB [REDACTED]		POB (CITY & STATE) AIKEN, SC	
SEX F	RACE W	HEIGHT 506	WEIGHT 132	HAIR COLOR BRO	EYES COLOR BLU	CITIZENSHIP US	EDUCATION 7TH
ALIAS/NICKNAME(S)		ALIAS/NICKNAME(S)		PHYSICAL MARKS/SCARS/TATTOOS			
STREET ADDRESS [REDACTED]			CITY AIKEN		STATE SC	ZIP CODE 29803	PHONE NUMBER
EMPLOYER STUDENT/ NEW ELL MID			ADDRESS WHISKEY RD. NEW ELLENTON, SC				PHONE NUMBER
VEHICLE MAKE		YEAR	MODEL		BODY STYLE	COLOR	LICENSE (STATE & NUMBER)

FAMILY MEMBER DATA

FAMILY RELATIONSHIP MOTHER		LAST NAME BR		FIRST NAME L		MIDDLE NAME	
STREET ADDRESS [REDACTED] R				CITY AIKEN		STATE SC	ZIP CODE 29803
PHONE NUMBER							

NOTES

ORAL INTERVIEW GIVEN BY VICTIM.
I/O TO SCHEDULE FORENSIC INTERVIEW.

(116)

Aiken County Sheriff's Office

Crime Victim Information

(Press Firmly)



Sheriff
Howard L. Sellers

Pursuant to statute SC 16-3-1506, victim services and all other delegated authorities will make a reasonable effort to ensure that victims of crime are notified of any progress pertaining to their case, assisted throughout the judicial process, and/or referred to the appropriate agencies for services.

State vs. NOEL EUGENE GRAY

Charge: CSC N/Minors

Warrant/Ticket No. _____

Incident Report No. 02-35498

Victim Information

Name of Victim <u>Minors</u>		☒ Minor		☐ Deceased	☐ Mentally Ill
Street Address <u>Aiken SC 29808</u>					
Mailing Address _____					
Telephone Numbers	Home: <u>6</u>	3	Work:	Pager:	Other/Cell #:

Alternate Contact Or Claimant Information

Name <u>Linda Marie Brown</u>		Relationship to Victim: <u>Mother</u>	
Mailing Address <u>Dr. Aiken SC 29803</u>			
Telephone Numbers	Home: <u>1</u>	3	Work:
			Pager:
			Other/Cell #:

Victim's Rights Notice

A victim has the right to be present and participate in all hearings, be represented by counsel, pursue civil remedies and submit an oral or written victim impact statement to the Court.

Please indicate Yes or No to the following:

1. As the victim of the above stated crime being investigated by the Aiken County Sheriff's Office:

- A. YES I would like to be notified when an arrest is made in this case.
 B. YES I would like to be notified when the defendant(s) in this case appears for a bond hearing.

LAW ENFORCEMENT IS RESPONSIBLE FOR NOTIFYING THE VICTIM OF THE DEFENDANT'S ARREST AND BOND HEARING IN THE EVENT THAT THE DEFENDANT IS BROUGHT DIRECTLY TO THE MAGISTRATE FOR A BOND HEARING.

2. As the victim of the above stated criminal offense to be tried before Summary Court or Circuit Court:

- A. YES I would like to be notified when the defendant(s) in the above stated case appear for a preliminary hearing, or for any plea, trial disposition.

3. As the victim of the defendant(s) in the above stated case who is being detained in a jail or other detention facility:

- A. YES I would like to be notified when the defendant(s) arrested in this case is released from custody.
 B. YES I would like to be notified if the defendant(s) arrested in this case escapes custody.
 C. YES I would like to be notified if the defendant(s) arrested in this case is transferred to a lower security detention facility.

OR-

4. WAIVER OF VICTIM'S RIGHTS

I fully understand my rights guaranteed to victims in the Constitution of the State of South Carolina and freely and voluntarily waive my rights of notification and appearances as stated above.

The victim is responsible for informing Aiken County Victim Services of any changes of address, phone number and/or employment. The victim is also responsible for submitting a victim impact statement and documentation of losses to the Courts in a timely manner.

Linda Brown
Victim's or Claimant's Signature

9-30-02
Date

Please indicate Yes or No to the following:

1. As the victim of the above stated criminal offense, I would like to request that the defendant(s) has no contact with me or my family as a condition of his/her bond.

Name of Deputy Completing Above Information: PLEASE PRINT Sgt. D.A. Blavins

Signature of Deputy: Sgt. D.A. Blavins Date: 9-30-02

NCIC

02-35498

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GRAY, NOEL EUGENE

I/O admin closes the case pending the arrest of Gray.

(20-2)

AIKEN COUNTY SHERIFF'S OFFICE

INTERVIEW WORKSHEET

CASE NUMBER 02-35498		DATE 9-30-02		TIME STARTED 1700		TIME ENDED 1730	
LOCATION OF INTERVIEW 420 HAMPTON AVE AIKEN, SC 29801				CHECK APPROPRIATE BOX ☐ VICTIM ☐ WITNESS ☐ SUBJECT		STATEMENT OBTAINED ☐ YES ☒ NO	
INDIVIDUAL DATA							
LAST NAME BROWN			FIRST NAME L...			MIDDLE NAME M...	
SOCIAL SECURITY NUMBER 250-45-4931		OTHER ID NUMBER (DL/SCID/ETC.)		DOB [REDACTED]		POB (CITY & STATE) ANDERSON, SC	
SEX F	RACE W	HEIGHT 508	WEIGHT 180	HAIR COLOR BRO	EYES COLOR BLU	CITIZENSHIP US	EDUCATION GED
ALIAS/NICKNAME(S)		ALIAS/NICKNAME(S)		PHYSICAL MARKS/SCARS/TATTOOS			
STREET ADDRESS 1037 CEDAR DR.		CITY AIKEN		STATE SC		ZIP CODE 29803	
EMPLOYER NONE/ DISABLED		ADDRESS				PHONE NUMBER	
VEHICLE MAKE		YEAR	MODEL		BODY STYLE	COLOR	LICENSE (STATE & NUMBER)
FAMILY MEMBER DATA							
FAMILY RELATIONSHIP		LAST NAME		FIRST NAME		MIDDLE NAME	
STREET ADDRESS		CITY		STATE		ZIP CODE	PHONE NUMBER
NOTES							
Mit Williams (Brother) [REDACTED] 1020 [REDACTED] Michelle C... (Neighbor) [REDACTED] Deatrice Holt (Mother) [REDACTED] 1017 [REDACTED]							

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Aiken County Sheriff's Office

Application For Criminal Arrest Warrant

Defendant's Information									
Name:	(Last, First, Middle) GRAY, NOEL EUGENE								
Alias:	JUNIOR								
Address:									
City:	AIKEN	State:	SC	Zip:	29803				
Phone:	(803)	39							
SSN#:		Sex:	M	Race:	W	Hgt:	511	Wgt:	209
D.L#:		State:		Age:	32	DOB:			
Outstanding Characteristics:									

Prosecution Information			
Prosecuting Agency:	Aiken Co. Sheriff's Office	Agency ORI #:	SC0020000
Prosecuting Officer:	DAVID A. BLEVINS	Rank:	SGT
Name of Affiant:	DAVID A. BLEVINS	Badge No:	4163
Affiant's Address:	420 Hampton Avenue N.E.		
City:	Aiken	State:	S. C.
		Zip:	29801

Nature of Offense			
Description of Offense:	CRIMINAL SEXUAL CONDUCT WITH MINORS		
Violation of South Carolina Code:	16-3-655 (3) 2 ND DEGREE		
Incident Date:	8/2002	Time:	05:00
Incident Case Number:	02-35498		
Incident Location:	1037 CEDAR DRIVE AIKEN, SC 29803		
Witness:	Address:		
Telephone No:	()	Witness Statement attached:	Yes No

Elements of Offense
THAT DURING THE MONTH OF AUGUST 2002 THE DEFENDANT, NOEL EUGENE GRAY, DID ENGAGE IN SEXUAL BATTERY WITH THE FEMALE VICTIM, WHO BEING 14 YEARS OF AGE, BY HAVING SEXUAL INTERCOARSE WITH THE VICTIM. THE DEFENDANT BEING IN POSITION FAMILIAR TO THE VICTIM, DUE TO HIM LIVING IN THE HOME, TO COERCE THE VICTIM INTO SEXUAL INTERCOARSE AND BEING OLDER, 32 YOA, THAN THE VICTIM. THIS TAKING PLACE AT 1037 CEDAR DRIVE AIKEN, SC 29803 IN AIKEN COUNTY.

Date:	10-1-02	Affiant's Signature:	<i>D. A. Blevins</i>

Probable Cause Established:	Yes	No
Date:	Judge's Signature:	

ARREST WARRANT

F- 718985

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
AIKEN COUNTY

THE STATE 02-038206

against

NOEL E GRAY JR.

Address: [REDACTED]
AIKEN SC 29803

Phone: [REDACTED] SSN: [REDACTED]

Race: W Height: 5 11 Weight: 230

DL #: [REDACTED]

DOB: [REDACTED] 70 Agency ORI #: [REDACTED]

Prosecuting Agency: SHERIFF DEPT

Prosecuting Officer: D J FLORES

Offense: CRIMINAL DOMESTIC VIOLEN

CE Offense Code: 1620

Code/Ordinance: 16-25-20

This warrant CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

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

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to
defendant NOEL E GRAY JR.
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

*****NEW ELLENTON SUMMARY COURT*****

327 MAIN STREET
NEW ELLENTON SC 29809

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
AIKEN COUNTY

AFFIDAVIT

July 1, 1990
SCCA 518

Personally appeared before me the affiant D J FLORES who
being duly sworn deposes and says that defendant NOEL E GRAY JR.
did within this county and state on 9/29/02 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of)
in the following particulars:

DESCRIPTION OF OFFENSE: CRIMINAL DOMESTIC VIOLENCE
16-25-20

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

UPON INFORMATION AND BELIEF THE DEFENDANT DID ON 09/29/02
UNLAWFULLY CAUSE PHYSICAL HARM TO THE VICTIM, L M
A HOUSEHOLD MEMBER, BY STRIKING HER UPON THE FACE USING HIS
HAND AND CAUSING FEAR OF IMMINENT PERIL. THE INCIDENT OCCURRING
AT 1 AR ST, AIKEN, SC IN AIKEN COUNTY AND BEING IN
VIOLATION OF THE SC CODE OF LAWS AS AMENDED.

Sworn to and subscribed before me
on 9/30/02

Signature of Affiant
Affiant's Address 420 HAMPTON AVE
AIKEN SC 29801
Affiant's Telephone [REDACTED]

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
AIKEN COUNTY

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on 9/29/02 defendant NOEL E GRAY JR.
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☐ Municipality of) as set forth below:

DESCRIPTION OF OFFENSE: CRIMINAL DOMESTIC VIOLENCE
16-25-20

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

Signature of Issuing Judge
Judge Code: 035

Judge's Address 327 MAIN STREET
NEW ELLENTON SC 29809

Judge's Telephone [REDACTED]
Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

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South Carolina Court Administration
WARRANT AND INDICTMENT STATUS CHANGE FORM
(One defendant and one warrant/indictment per form)

4301-A-03
ACSO

Defendant Name Wale E Gray Jr

County 02 Aiken

Action Date 02/07/05

Indictment No. GS

Indictment Placed on PTI

Indictment Placed on Contingent Docket

Indictment Not Pros (See reason below)

Indictment Pros Ended (See reason below)

Warrant Number E-718985

☐ Warrant Reinstated

☐ Warrant Placed on PTI

☐ Warrant Removed from PTI

☐ Warrant Transferred to Summary Court

☐ Warrant Dismissed (See reason below)

New Arrest Date

Warrant: File Date

Reason for action (optional): Defendant convicted of 2 counts of Criminal Sexual Conduct w/ Minor - Given Life Sentence

Authorized by Kelley Brown
(Solicitor)

Received by _____
(Clerk of Court)

Date Transmitted To Court Administration

SCCA/2:2
5/84

White Copy - Clerk

Canary Copy - Court Administration

Pink Copy - Solicitor

MAR 15 2005
JRP

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HRI600-R01

South Carolina Department of Social Services

Reporter Report For
Intake ID: 0001112712

10/07/2004

Reporter Name: everett chandler
Address: aiken courty solicitor's offic
Aiken, SC 29801
Phone: [REDACTED]

Reporter Type: Courts
Call Reporter Back? Yes
Confidentiality? Yes

Source:
First-Hand Knowledge

Reporter Comments:

they have been working on a case prosecuting the perp noel gray, jr. he is incarcerated at this time. at the time of interview with child last week she disclosed that mom was participating in the sexual act with her and mom's boyfriend. mom is back with her husband and father of the children. investigator blevins is involved in this case.

Collateral Contacts Suggested:
none

Did Reporter Request Feedback?
Yes

Inv. claud Blevins

sheriff's
dept

[REDACTED] (cell)
[REDACTED] (0)

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SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES

Kim S. Aydlette, State Director, P.O. Box 1520, Columbia, S.C. 29202-1520

Mr. Austin B. Scott, Jr.
Director, Aiken County

North Augusta Branch Office
Business Technology Center (BTC)
802 East Martintown Road
North Augusta, South Carolina 29841
Telephone: (803) 202-3500

October 25, 2004

RE: Open investigation

Dear Greg and Linda Brown:

The purpose of this letter is to inform you that the Aiken County Department of Social Services currently has an open investigation on your family. Our department has made several attempts to your home and has been unable to locate you. We have made arrangements for you to meet with the agency at the Aiken DSS office in North Augusta, SC on November 3, 2004 at 10:00 am. It is imperative that we meet with you to discuss your case. Your failure to comply could result in a determination made without you concerning your case. If you have any questions or concerns, please do not hesitate to contact the case manager, B. Williams, at 803-202-3550.

Sincerely,

A handwritten signature in cursive script that reads "B. Williams". The signature is written in dark ink and is positioned above the printed name.

Bietrich C. Williams

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HRC690-R01

South Carolina Department of Social Services
Case Dictation

11/19/2004

Case ID: 0001013741
Case Name: b[REDACTED], gr[REDACTED]

Actions:

Staffing With Supervisor (Case Decision)

Recipients:

0001039068 - br[REDACTED], li[REDACTED] 02/14/1965

Action Date: 11/19/2004

Action Time:

Time Spent: 0.25

Input Date: 11/19/2004

Input Time: 12:31PM

Worker:

C[REDACTED]
B[REDACTED]

Service ID

0001143011

Program Service Type: Child Protective Services Assessment
Authorization

Targeted case management billable activity? No

Primary or concurrent case management? Primary

Dictation:

11/19/2004 12:31:54

CM participated in a staffing with supervisor, C[REDACTED] No[REDACTED] for the purpose of making a case decision. CM informed the supervisor of the consultation with the perpetrator, Noel Gray. The supervisor informed the CM to make a case decision of unfounded category 2 against Linda B[REDACTED] and find the case against Noel Gray for sexual abuse.

See the staffing sheet in the hard file for details.

Actions:

Field Visit

Recipients:

0001039068 - br[REDACTED], li[REDACTED] - [REDACTED]

Action Date: 11/18/2004

Action Time: 12:00PM

Time Spent: 1.00

Input Date: 11/19/2004

Input Time: 12:29PM

Worker:

C[REDACTED]
B[REDACTED]

Service ID

0001143011

Program Service Type: Child Protective Services Assessment
Authorization

Targeted case management billable activity? Yes

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Primary or concurrent case management? Primary

Dictation:

11/19/2004 12:29:28

CM conducted a visit to the Aiken County Detention Center for the purpose of consulting with Noel Gray about L. B. and the allegations against her. Mr. Gray informed the CM that he did not have a sexual relationship with Minor. Mr. Gray states that Minor's mother was present at the home at all times. Mr. Gray states that Mrs. B. has a great deal of medical problems where she would need medication. Mr. Gray states that Mrs. B. mostly received injections which she administered to herself. Mr. Gray states that after Mrs. B. had her surgery that she was taking oral medications such as pain killers and a light sedative. Mr. Gray states that Mrs. B. administered her medication to herself. Mr. Gray states that he would take Mrs. B. to her doctor appointments but he did not give her her medication. Mr. Gray states that between mid July 2001 and November 2001 that they were residing on 1078 Madison Avenue. Mr. Gray states that he and Mrs. B. was sleeping in a tent in the garage and Minor was sleeping in the room with a thirteen year old. Mr. Gray states that they were staying at his friend's house named Mr. Williams. Mr. Gray states that due to a violation of his probation he was not in Aiken between November 2001 through March 2002. Mr. Gray states that he was serving time in Brunswick. Mr. Gray states that he returned in March 2002 and stayed until September 2002. Mr. Gray states that allegations against him for sexually abusing Minor came out after he left. Mr. Gray states that he never touched Minor but Mr. Williams did. Mr. Gray states that Minor loved him and called him Pooh Bear. Mr. Gray states that he does not know when his trial date is scheduled but he would like to have his chance to prove it in court. CM will staff with the supervisor.

Actions:

Home/Facility Visit

Recipients:

0001039068 - b. li. 02/11/2005

Action Date: 11/04/2004

Action Time: 01:00PM

Time Spent: 0.75

Input Date: 11/08/2004

Input Time: 11:56AM

Worker:

Service ID

0001143011

Program Service Type Child Protective Services Assessment

Authorization

Targeted case management billable activity? No

Primary or concurrent case management? Primary

Dictation:

11/08/2004 11:56:00

CM conducted a visit to the home of G. and L. B. for the purpose of evaluating the safety of Minor and G. B. Jr. CM observed a three bedroom trailer with one bath. CM observed that a bedroom was added for G. CM observed Mrs. B. mother sitting in the living room. Mrs. B.'s mother, B., states that her daughter could not have done what DSS is alleging. CM informed B. that DSS is investigating the allegation and a determination will be made once the investigation is complete. Beatrice states that L. was brought up in a Christian home

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and would not do anything to hurt her children. CM observed that Mr. and Mrs. B. have an adequate amount of food. CM observed that Greg and Lina have their own room. CM observed that there were a cat and puppy in the home. CM observed that there were a great deal of clutter in the small trailer.

See the pictures in the hard file for details.

CM will contact law enforcement and make arrangements to meet Noel Gray at the Aiken County Detention Center.

Actions:

Initial Face to Face With Family

Recipients:

0001039068 - [REDACTED] - 03/11/2004

Action Date:	11/03/2004	Action Time:	10:00AM	Time Spent:	1.00
Input Date:	11/08/2004	Input Time:	11:47AM	Worker:	[REDACTED]

Service ID: 0001143011
 Program Service Type: Child Protective Services Assessment
 Authorization

Targeted case management billable activity? Yes
 Primary or concurrent case management? Primary

Dictation:

11/08/2004 11:47:59

CM consulted with Greg and Lina Brown about the allegation of Mrs. Brown participating in the sexual abuse of her daughter, Minor. CM read the allegations to Mrs. Brown. Mrs. Brown denies the allegations. Mrs. Brown states that at the time when they were residing with Mr. Williams that his wife, Brown Williams, was molesting her child. Mrs. Brown states that she had a suspicion that her boyfriend was sexually abusing her child but she did not know for sure until the neighbor told her. Mrs. Brown states that her boyfriend had moved out due to problems they were having and then the neighbor told her that Minor has something to tell her. Mrs. Brown states that once she found out what her boyfriend had been doing to her daughter that she contacted law enforcement and made arrangements for her daughter to have a medical exam at the ARC in Columbia. Mrs. Brown states that the neighbor witnessed her boyfriend kissing Minor. Mrs. Brown states that to this day Minor has not told her the entire story but bits and pieces. Mrs. Brown states that she has been back with her husband since September 2002. Mrs. Brown states that she currently has medical problems with the uncontrollable migraines, a bone disease in her legs, panic attacks which she is currently taking Zanax for and the inability to sleep. Mrs. Brown states that she is taking Vicodin for pain and Zantac for her acid reflux. Mrs. Brown states that during the time her boyfriend was sexually abusing Minor that she was having major back surgery. Mrs. Brown states that this was during the year of 2000 and 2001. Mrs. Brown states that she was bed ridden for three months before she could walk. Mrs. Brown states that she was on pain medication that would put her to sleep. Mrs. Brown states that she currently has TIA strokes since July 2004. Mrs. Brown states that she is currently 100% disabled. Mrs. Brown states that she could not have touched Minor like it is stated in the report. Mrs. Brown states that they have been in counseling the last six to eight months. Mrs. Brown states that she and Minor participate in counseling at the Cumbee Center. Mrs.

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10/26/2004 10:03:15

CM questioned Minor [redacted] about the allegation of the sexual abuse. CM accompanied officer D [redacted] Blevins to Silver Bluff high school to question Minor [redacted] about the sexual abuse. Minor [redacted] states that the allegation is true. Minor [redacted] states that when they were living with M [redacted] in his trailer that is when it happened. Minor [redacted] states that M [redacted]'s wife, B [redacted] W [redacted], messed with her as well. Minor [redacted] states that B [redacted] likes to look down her shirt and tried to touch her breast. Minor [redacted] states that she also stuck her tongue down her ear. Minor [redacted] states that B [redacted] also touched her breast on the outside of her clothes. Officer B [redacted] questioned Minor [redacted] about her mother's involvement in the sexual abuse. Minor [redacted] states that her mother touched her breast with her hands. Minor [redacted] states that it only happened once. Minor [redacted] states that her mom knew Noel was having sex with her and her mother told Noel to stop messing with her. Minor [redacted] added that during the time her mom touched her that Noel had drugged her with different types of medication. Minor [redacted] states that they were still residing in M [redacted] trailer. Minor [redacted] states that she does not like M [redacted]. CM questioned Minor [redacted] about being punished. Minor [redacted] states that her parents punish her by putting her on restriction. Minor [redacted] states that she is in the [redacted] grade in special education classes. Minor [redacted] states that she has her own room. CM questioned Minor [redacted] about what she had for dinner and breakfast this morning. Minor [redacted] states that last night they had spaghetti and she did not have breakfast this morning. Minor [redacted] states that she is up to date with her immunizations. CM questioned Minor [redacted] everyone residing in the home. Minor [redacted] states that she lives with her mom, dad and little brother. Minor [redacted] states that her little brother, G [redacted], attends Greendale Elementary. Minor [redacted] states that her mom and dad work early in the morning delivering newspapers. CM questioned Minor [redacted] about observing any arguing between her parents. Minor [redacted] states that she has not observed her parents fighting. CM questioned Minor [redacted] about any weapons in the home. Minor [redacted] states that they have a gun in the home for protection. Minor [redacted] questioned the CM about her mom getting into trouble. CM informed Minor [redacted] that that will be up to law enforcement. Minor [redacted] informed Officer B [redacted] that she believed her mom would not have done that if Noel had not drugged her. Officer Blevins states that he would have to discuss the matter with his boss and the solicitor's office. Minor [redacted] states that she has not discussed this with her mom. Minor [redacted] states that she and her mom attend counseling at the Cumbee Center with A [redacted] C [redacted]. Minor [redacted] adds that her dad has been supportive as well. Officer B [redacted] asked Minor [redacted] if she believed that her mom protected her. Minor [redacted] replied with yes. Minor [redacted] states that her mom contacted law enforcement. Minor [redacted] states that she loves her mom and is worried about her. Minor [redacted] states that her mom has stokes that she takes a great deal of medication for. CM will make arrangements to meet with L [redacted] B [redacted] and the rest of the family.

Actions:

Initial Contact Attempted

Recipients:

0001039068 - [redacted] - [redacted]

Action Date: 10/08/2004

Action Time: 10:30AM

Time Spent: 0.75

Input Date: 10/08/2004

Input Time: 11:15AM

Worker:

Service ID

0001143011

Program Service Type

Child Protective Services Assessment

Authorization

Targeted case management billable activity? No

SECTION I: INFORMANT QUESTIONNAIRE PART II

Account of Allegation

1. Identity of alleged perpetrator (include full name, age, race): Noel Eugene Gray, 32, white
2. Relation to child: Mother's former boyfriend

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04

3. What else is known about alleged perpetrator? Previous record as sex offender
4. Allegation of maltreatment, course of discovery (include time frame, how did suspicions arise?):

Initial report to police was anonymous. Minor denied any inappropriate touching when questioned and mother stated that she had no reason to believe there was any problem. Investigation was closed. Sometime after this, mother and Mr. Gray got into an argument and he stated that he was leaving, which he did. Mother's neighbor and friend, Michelle C. then told mother that she had been the anonymous caller and had seen Mr. Gray touching and kissing Minor on some occasions. Ms. Gray talked to Minor who confirmed that he had had sex with her but she had been afraid to tell. Mother reported to law enforcement and investigation was reopened. Minor gave a statement to police. Mr. Gray's whereabouts are unknown at this time.

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

Flat affect; clinically significant elevations on scales measuring anxiety, depression, dissociation on TSCC; some sleep disturbance and difficulty concentrating due to fears about perpetrator

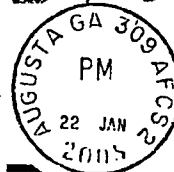
D8

6. Child's Understanding of the Assessment: Talking with someone about what happened and getting an exam.

Neel Gray
 A.C.D.C. D-245
 435 wine Rd.
 Aiken, S.C.
 29801

- Legal Mail -

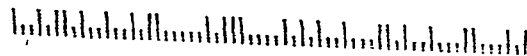
2004-65-02-1333



Aiken County Clerk of Court
 Family Court Division
 P.O. Box 583
 Aiken, S.C.
 29803

January 25, 2005
 Hedard
 [Signature]

29802+0383



04

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1334

1335

01.20.04

To whom it may concern,

I would like to request
a hearing regarding this notice and petition for
Central Registry Entry. I am not guilty of any
sexual misconduct with Kristina Brown.
I want a hearing, please.

Thank You
Noel Gray
NOEL GRAY

P.S. I also want my Attorney Kelly Brown (Public Defender)
notified and present during this hearing.

Contact her at 803-643-1732

Copy to Judge Early
to Public Defender
Returned Copy to Defendant
Copy to Family Court.

and January 25, 2004

12.2

Minor spoke very quietly and minimally. She stated that she was here because she was molested by her friend. His name is Junior. His real name is N. E. Gr. He was her Mom's friend. Minor is now living with her dad, mom, and younger brother but before that she and her mother had lived with Junior for a while. They lived with him and some mutual friends, Aunt B. and Uncle M., for a time. Then just the three of them lived together. The stuff with Junior happened at both of those places. Interviewer asked Minor to tell about one time she remembers well. She said "Actually, I don't remember." Interviewer told her to just tell what she does remember. She said it was at M. and B.'s house. They were all home asleep. Minor and Mom shared a bed. Junior came in and shook Minor awake. "Then he'd pull down my clothes and have sex with me." Mother did not wake up. Interviewer brought out drawings and asked Minor to point. She stated that his penis was inside her vagina. She was lying on her back. This happened more than one time. Mom never woke up and nobody ever saw. It felt nasty. White stuff came out of his penis. It got on her stomach. He asked her to touch his penis with her hand. "He would grab my hand and stick it on his penis and make me move my hand up and down." Minor stated that he never made her do anything to him with her mouth and never did anything to her body with his mouth. He told her she better not tell or he'd hurt her. Minor did not tell. Mother's friend M. told Minor's mom that she had seen Junior French-kissing Minor at the beach. M. does not remember this happening. When mom asked M. she told her. Junior had already taken off by then. He left because he was mad and he was scared of the police because he spent time in jail before. Mom had brought up jail and he got mad and left. After telling her mom, Minor told the police and her guidance counselor at school. Asked what he was like to live with, Minor stated that he was a nice person. She denied seeing him abuse alcohol or drugs. She denied having a boyfriend and denied any other sexual contact. Interviewer reiterated that she had said that mom didn't wake up. She then said "Most of the time he'd wake me up and take me in the kitchen." They would have sex standing up. Sometimes it would be in bed with

Mom there. He made the threat about hurting her if she told "a couple of times." After, she would get up and go to the bathroom and wipe herself up with a towel, which she would put in with the dirty clothes. Interviewer asked if Minor was worried about anything. She said that she was worried that he might find out that she told and try to hurt her. Interviewer asked about other feelings she might be having. She said that she gets scared a lot. "You think something's going to happen or you'll get in trouble." Interviewer asked to whom she could talk about her concerns. She named her mother and her guidance counselor.

Evaluator's Signature:

Date:

[Signature]

11/7/02

Interviewer thanked her for coming in and returned her to the waiting room.

(F4)



Assessment & Resource Center
The Children's Advocacy Center of Richland County
Serving the Midlands

RECOMMENDATIONS/REFERRALS

Patient's Name: Minor Evaluation Date: 11/6/02

The Assessment & Resource Center suggests the following resources for your assistance:

1. No contact w/ alleged perpetrator
2. contact police immediately if he makes
3. any contact w/ family
4. Minor should begin therapy ASAP
referrals given to mother.

Comments: _____

Follow-up Date: _____

Please call us if you have any questions or if you need additional information or referrals at (803) 898-1470.

If therapy has been recommended, please have your child's therapist request records from the A.R.C.

D5

104-ES02-1333

ASSESSMENT & RESOURCE CENTER FORENSIC MENTAL HEALTH REPORT FORM

CHILD'S NAME: Minor I.D.#: 9623690
 DATE OF ADMISSION: 11/06/02 SEX: Female
 DATE OF BIRTH: [REDACTED] AGE: 14
 REFERRAL SOURCE/AGENCY/PHONE: Aiken S.D. / Sergeant Blevins / [REDACTED]

INVOLVED AGENCIES: Enter specific personnel and agency name.

☒ Law Enforcement See above
☒ DSS Report faxed to DSS—no open investigation at this time
☒ GAL
☐ Other

TYPE OF ABUSE SUSPECTED (Check):

☒ Sexual Abuse ☐ Physical Abuse ☐ Physical Neglect
☐ Emotional Abuse ☐ Unknown ☐ Other

REFERRAL QUESTION(S) / PRESENTING NEED(S):

Minor	is referred for a forensic evaluation regarding allegations of sexual abuse by her mother's boyfriend.
D6	

SECTION I: INFORMANT QUESTIONNAIRE PART I

INFORMANT NAME(S): L. B.

RELATIONSHIP TO CHILD: Mother

CHILD'S PRESENT LOCATION: 215 W. ... Aiken, SC 29803 (home)

1. Describe the family makeup (family members, care giver data, housing info, etc.): Since this incident, Minor and her mother have moved back in with Minor father, G. Br. Also in that home is G. Junior, a. Prior to this, Minor and her mother had lived with Noel Eugene Gray ("Junior"). The three lived with mutual friends, B. and M. Wil. for a time, and then the three moved into a rented trailer together. The Browns had separated for a time, but are now back together. Mr. Gray had access to Minor between July '01 and November '01 and then again from March '02 to the end of September '02.

2. Does the child have any current, or historical, significant medical problems? Y X NR
If yes, describe: Mother reports that Minor has ADD, but this has not been confirmed by a doctor and she receives no treatment.

3. Developmental and mental health history:
(pregnancy/birth, developmental milestones, traumas, counseling history)
Normal birth and development; no prior counseling

4. Has the child experienced any difficulties at school? x Y NR
If yes, describe: Some difficulty focusing, but this is not a change for her.

5. Brief family history:
(include psychiatric problems, substance abuse, domestic violence, legal problems: DSS history) Mother takes Paxil for panic attacks. Mr. Gray told Ms. B. that he is bipolar. He is a registered sex offender, having served 10 years for an offense with a minor in the past. He was on probation, which he had broken once and had had to return to prison for 5 months. He was also convicted of stealing a medical bag from a firehouse, for which he was fined. Mr. Gray told Ms. B. that he had been set up regarding the sex offense and she believed him. No known drug or alcohol problems. One incidence of physical violence during an argument. After this argument, Mr. Gray left and his whereabouts are presently unknown to Ms. B. and the police.

Previous child maltreatment investigations in family? ☐ Y x NR
If yes, describe:

D7

04 GS-02 1333

CHILDREN FROM BIRTH THRU AGE 17

nt Name: MinorDate: 11/6/02Stamp
Name of

Date of Visit:	<u>11/6/02</u>	Time:	<u>8:30 AM</u>
Source of Intake Information: <u>Sergeant Blevins</u>			
Relation: ☐ Child Protective Services ☐ Medical Provider			
☒ Law Enforcement ☐ Other:			
☐ Guardian			
Is patient in Emergency Protective Custody?			
☒ No ☐ Yes Date:			
Site: <u>APC</u>			
Provider Name (Print): <u>L. E. Blevins, M.D.</u>			

EXAM TYPE PERFORMED: ☒ SEXUAL ABUSE☐ PHYSICAL ABUSE☐ BOTH

DEMOGRAPHIC INFORMATION
Photocopy of Agency Demographic Information May Be Substituted

Patient Name: <u>Minor</u>		Sex: ☒ Female ☐ Male
DOB: <u>[REDACTED]</u>	Age: <u>[REDACTED]</u>	SS#: <u>[REDACTED]</u>
Race: ☒ White ☐ Black ☐ American Indian ☐ Oriental ☐ Bi-Racial ☐ Other		
Mailing Address: <u>[REDACTED] Aiken, S.C. 29803</u>		Migrant: ☒ No ☐ Yes
Street Address: <u>Same [REDACTED] (mother)</u>		
Phone: <u>[REDACTED] (neighbor)</u>		
Current School: <u>New Ellington Middle</u>		County of Residence: <u>Aiken</u>
Legal Custodian/Relation: <u>L. E. Blevins Biological mother</u>		District:
Contact Name:		Grade: <u>9th</u>
Accompanying Guardian/Relation: <u>L. E. Blevins and father</u>		Contact Phone:
Payment Source: <u>SOVA</u>		
Policy #:		
INVOLVED AGENCIES		
Law Enforcement: <u>Aiken</u>		
☐ Police Department ☒ Sheriff Department:		
Officer: <u>Sergeant Blevins</u>	Badge #:	Phone:
Address:		
DSS:	Report Date: <u>5/10 + 9/16/02</u>	OCA or Case #: <u>02-35498</u>
Phone:	Social Worker's Name: <u>[REDACTED] + 10/9/02</u>	
Address:	Ext:	
Other Agency(ies):		
Signature of Examiner: <u>[REDACTED] M.D.</u>		
Print Name: <u>L. E. Blevins M.D.</u>		
Date: <u>10/6/02</u>		

178 INCIDENT INFORMATION

Stamp Pl:
Name of P:

Patient Name: Kristina Brown

Date: 11/6/02

Previous Exam for Maltreatment: ☐ No ☐ Unknown ☒ Yes
Date: _____

Location: _____

Physician: _____

Phone: _____

Results: _____

Initial Indicator of Risk: ☐ Victim Behavior ☒ Victim Verbal

#1 Aiken Regional Medical Center ER 10/14/02

#2 Aiken Health Dept. 10/11/02

Physical Indicators: ☐ Witness ☐ Unknown ☐ Other: _____

Brief History of Allegations and/or Reason for Referral: _____

History from mother & records:

On 9/10/02 an anonymous report was made to Aiken SD that Minor was sexually assaulted by Noel Eugene Gray. Minor and her mother were interviewed by police and denied allegations, so case was unfounded. Mother states on 9/30/02 she and Noel E. Gray argued and he left. After he left Minor disclosed that prior allegation of sexual assault was true and that she had sex with Noel E. Gray on several occasions and he threatened her life if she told. Another police report was made on 10/9/02 according to mother Gray has sexual time (10 years) in the past for sexual assault of a minor. Gray has disappeared and police cannot locate him.

Minor was examined at medical facilities listed above and had THIV, RPR, Gonorrhea culture and GC and chlamydia DNA probe. Details of exam unknown.

IF KNOWN, identity of alleged offender: Noel Eugene Gray

Age: 32

Sex: ☐ Female ☒ Male

Race: White

Relationship to Child: Mother's boyfriend

Date/Place of first alleged maltreatment: _____

Date/Place of last alleged maltreatment: _____

Date of last contact: _____

Access to this child: ☐ No ☐ Yes

Access to other children: ☐ No ☐ Yes

See Below: _____

If applicable, identity of additional offender: _____

Age: _____

Sex: ☐ Female ☐ Male

Race: _____

Relationship to Child: _____

Date/Place of first alleged maltreatment: _____

Date/Place of last alleged maltreatment: _____

Date of last contact: _____

Access to this child: ☐ No ☐ Yes

Access to other children: ☐ No ☐ Yes

Name of Therapist Involved: _____

Agency: _____

Phone: _____

Examiner's Signature: [Signature]

Date: 11/6/02

(E-3)

PATIENT INFORMATION

179

Patient Name: Minor

Date: 11/6/02

Stamp
Name of

Sex: L B

Relationship: Mother

Accompanying Adult(s)/Relationship(s):

Patient's Communication Skill Level: ☐ WNL ☐ Delayed ☐ Unknown

Personal Physician's Name: Dr. Oland

Location: Aiken Family Practice Phone:

Current Medications: ☒

Antibiotics Taken Since Possible Exposure: ☒

Reason Rx:

Allergies: ☐ N/A ☒ No ☐ Yes - Drug(s):

☐ Atopic Dermatitis ☐ Other:

Developmental Level: ☒ Appropriate ☐ Delayed ☐ Advanced ☐ Unable to Assess

Prenatal History: Maternal Violence/Trauma ☐ No ☐ Yes -

Complication: ☒ No ☐ Yes - TSVD

Substance Use: ☒ No ☐ Yes -

ETOH:

Perinatal History: Complications: ☒ No ☐ Yes -

Length of Hospital Stay:

Birth Weight:

Feeding Problems:

Surgeries - ☒

Pertinent Past Medical History

Invasive Diag. Proc. - ☒

☐ Increased Bleed. Tendency - ☒

☐ Medical Treatment - ☒

☐ Seizures - ☒

☐ Hospitalizations - ☒

☐ Eye Injury - ☒

☐ Ingestion - ☒

☐ Sutures - ☒

☐ Head Injuries ☐ No ☐ Yes

☐ Tetanus Status - Date: 11/10

☐ Physical Injuries ☐ N/A ☒ No ☐ Yes -

☐ Fractures - ☒

☐ Burns - ☒

☐ Ano-genital injuries or infection - ☒

Other - ADD

Menarche: ☐ No ☒ Yes Age: 12

Date of LMP: 2 weeks ago

Normal: ☐ N/A ☐ No ☒ Yes

Pregnancy History: 1

STD History: ☒

Use of Contraceptives: ☒ N/A ☐ Oral ☐ Injectable Contraceptive ☐ Condoms ☐ Other -

Comments:

☐ Bleeding & Bruising Disorders - 7

Pertinent Family History: 2 Sa ARC mit history

☐ Drug Use - ☒

☐ Bone Disease - ☒

☒ Domestic Violence (Severity/Frequency) - Mother + boyfriend (Surg)

☐ ETOH Use - ☒

☐ Mental Health Problems - 7

Reported to Law Enforcement ☐ Yes ☐ No

Examiner's Signature: [Signature]

Date: 11/6/02

FE - HOSPITAL

CANARY - LAW ENFORCEMENT
Page 3 of 12

(E-4)
PINK - VICTIM COMPENSTION

PHYSICIAN'S HISTORY OF PRE-ILLNESS FOR BOTH PHYSICAL ABUSE AND CHRONIC SEXUAL ABUSE CASES

Stamp Place
Name of Pa

Patient Name: Minor

Date: 11/1/02

Patient Interviewed
in the Presence of:

Brief Summary of Assault(s)- Include date, time, location, if possible.
Some children may be able to associate the time of assault with
weekends, a holiday, or a special television show. Describe in the child's
own words details of the abuse.

Reason History Not Obtained:

Interviewed by Law
enforcement and Mr. B. [redacted] on

11/16/02

GS-02-1333

04

Were any photographs taken during the incident? ☐ No ☐ Yes ☐ Unknown Comments:

Did anyone see the assault? (i.e., brother, sister, friend) ☐ No ☐ Yes ☐ Unknown Comments:

Was there any coercion used? ☐ Knife ☐ Gun ☐ Choke ☐ Fists ☐ Binding
☐ Physical Size ☐ Verbal Threats ☐ Parent or Adult Authority ☐ Bribe
☐ Drugs/Alcohol ☐ Unknown ☐ Other: Comments:

Narrative of Concerns and Observations

Effect of Support Person: ☐ Cooperative ☐ Uncooperative ☐ Supportive ☐ Unsupportive ☐ Hostile ☐ Flat ☐ Ambivalent

Examiner's Signature

Print Name:

Date: 11/16/02

(E5)

SEXUAL ABUSE/ASSAULT INFORMATION FOR CHRONIC SEXUAL ABUSE CASES ONLY

Optional Supplement to Interview

Stamp
Name of

GS-02-1333

Patient Name: Minor

Date: 11/6/02

Patient Interviewed
in the Presence Of:

Described by
Patient

N Y U

Comments

Vaginal Contact

Penis

Finger

Foreign object (Describe)

Anal Contact

Penis

Finger

Foreign object (Describe)

Copulation of Genitals

of Victim by Assailant

of Assailant by Victim

Oral Copulation of Anus

of Victim by Assailant

of Assailant by Victim

Masturbation

of Victim by Assailant

of Assailant by Victim

Did ejaculation occur? If yes, write child's description:

Describe location(s) on the body:

Where did ejaculate go?

Describe assailant's genitals:

Condom used

Foam, jelly, or lubricant used (circle)

Fondling, licking, kissing or biting (circle)

Describe the location on the body:

Assailant's Signature:

Date: 11/6/02

(E-6)

182 REVIEW OF SYMPTOMS

Stamp Pl.
Name of P

Patient Name: Minor

Date: 11/6/02

Patient Interviewed
in the Presence of:

mother

		Described by Patient			Described by Historian			Prior Tx			Comments
		N	Y	U	N	Y	U	N	Y	U	
Urogenital	Pelvic pain				/						1333 GS-02- '04
	Genital discomfort or pain				/						
	Dysuria				/						
	Urinary tract infections				/						
	Enuresis				/						
	Hematuria				/						
	Genital itching				/						
	Genital discharge (Describe color/odor/amount)				/						
	Genital bleeding				/						
Anorectal	Rectal pain				/						
	Rectal bleeding				/						
	Rectal itching				/						
	Constipation				/						
	Incontinent of stool				/						
General Symptoms	Frequent headaches				/						
	Frequent stomachaches				/						
	Vomiting				/						
	Eating disorder				/						
	Weight change				/						
Behavioral Symptoms and Observations	Sexual Behaviors	/			/						Denial consensual sex - both child and mother ADD
	Sleep Disorders				/						
	School Problems				/						
Prior Testing Date: <u>See history</u>								Prior Treatment Date: _____			
[] Kit [] Pregnancy [] Chlamydia [] HIV [] GC [] RPR [] Other: _____								[] Pregnancy - Specify: _____ [] STD - Specify: _____			
Examiner's Signature: <u>[Signature]</u>								Date: <u>11/6/02</u>			

(E7)

PHYSICAL EXAMINATION RECO

183

Patient Name: _____ Minor

Date: 11/6/02

Stamp
Name c

Name(s) of Person(s) Present:

Staff

Behaviors Observed During Exam: Describe:

Flat affect. Very little verbal response.
Calm and cooperative

Physical Exam: Height: 63 1/4" %

Weight: 127 # %

H.C.: %

GS-02-1333

	WNL	ABN	N/A	Explain
General Appearance		✓		Flat affect. Subl acne.
CN II-XII			✓	
Motor Strength/Tone	✓			
Ears/TMs	✓			
es/Femur	✓			both ears pierced twice
Nose	✓			
Mouth/Oropharynx	✓			
Teeth: Upper		✓		
Teeth: Lower		✓		Very poor dentition & multiple perforated teeth
Frenulums: Lips	✓			
Neck	✓			
Breasts/Chest	✓			
Back	✓			
Lungs	✓			
Heart	✓			
Abdomen	✓			
Hair/Scalp	✓			
Skeletal	✓			
Other				

Comments:

Normal general exam & as above.

(E8)

Examiner's Signature:

[Signature] M.D.

Date: 11/6/02

PHYSICAL EXAMINATION RECO

Patient Name: Minor

Date: 11/16/02

Stamp Plat
Name of Pal

Skin Findings

(Describe color, configuration, measurements, and any remarks by the child as to the etiology for each lesion.)

Photos Taken: ☐ No ☐ Yes-Number Taken: _____Forensic Dentistry Consult: ☐ No ☐ Yes Who: _____Lesions Consistent with Bite Marks: ☐ No ☐ Yes

1333

GS-02

04

See page 9.

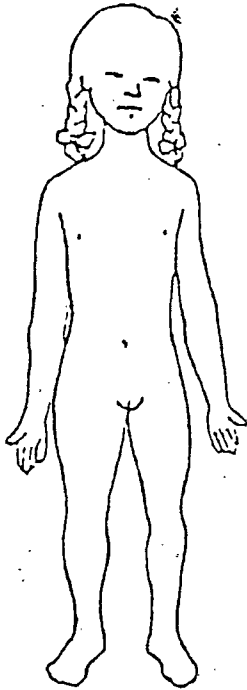
Male/Female Exam	WNL	ABN	Describe
Tanner Stage (Maturity Level)			
Breast 1 2 3 4 5	/		
Genitals 1 2 3 4 5	/		
Inguinal Adenopathy	/		
Medial Aspect of Thighs	/		
Perineum	/		
Male Genital Exam			
Penis			
Circumcised	☐ No	☐ Yes	
Urethral Meatus			
Scrotum			
Testes (Anal/rectal exam on next page)			
Urethral Discharge	☒ No	☐ Yes	
Consistent W/Condyloma	☒ No	☐ Yes	Treated (Method):
Acetic Acid Diagnostic	☒ No	☐ Yes	
Examiner's Signature: <i>[Signature]</i> M.D.			Date: 11/16/02

(E9)

Stamp Pla
Name of Pa

04 GS-02-1335

BODY DIAGRAMS



Normal

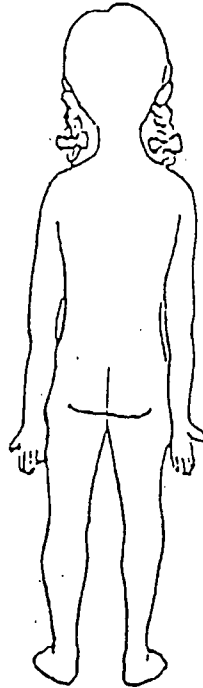
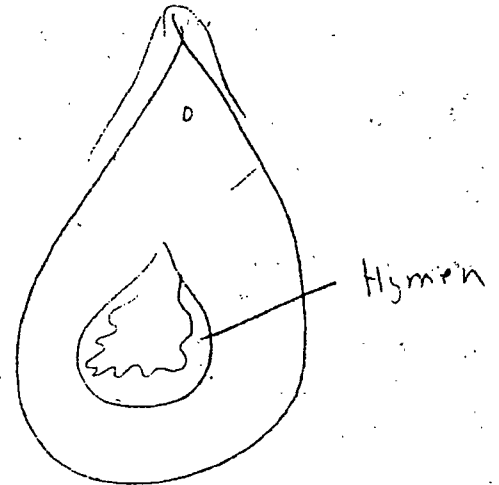
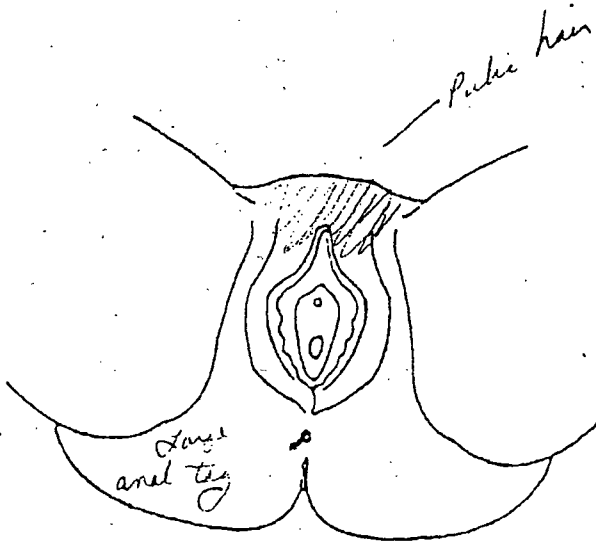


DIAGRAM OF HYMEN



Normal

[Signature]
(E10)

LAB/SUMMARY

Stamp Plate
Name of Patient

Patient Name: Minor Date: 11/6/02

Laboratory Specimens (Check specimens collected.) Date:							
Type	Blood	Urine	Throat	Vaginal	Urethral	Rectal	Other
GC Culture							
Chlamydia Culture							
Wet Prep							
Herpes Cult.							
C&S							
Other							

UCG/BHCG		Treatment: ☐ No ☐ Yes - Rx:
U/A		☐ Pregnancy Prophylaxis (Specify):
RPR		☐ STD (Specify):
HIV		☐ Bleeding Studies ☐ PT ☐ PTT ☐ von Willebrande
CBC		☐ Other (Specify):
Hep B		X-Rays:

Recommendation for Follow-Up: ☐ Medical - ☐ Mental Health - ☐ Other Agency -

SUMMARY: A normal exam does not rule in or out maltreatment. Please note the exact wording of the headings below. Recognize that findings diagnostic of sexual abuse/contact are exceedingly rare when the contact has occurred greater than 72 hours from this physical exam.

☐ SIGNIFICANCE OF PHYSICAL FINDINGS UNKNOWN

Patient's Exam Is:	ANOGENITAL Trauma	PHYSICAL Trauma	OTHER
Normal Exam			
Nonspecific			
Suspicious			
Consistent			
Diagnostic			

Are there any discrepancies in history: ☐ No ☐ Unknown ☐ Yes Explain:

Discussion

Normal genital and genital exam & per per dentition.
A normal genital exam does not rule out sexual abuse.

Signature of Examiner: [Signature] Print Name of Examiner: Leah Bethen, M.D. Date: 11/6/02

Name of Preceptor, If Applicable: Signature of Preceptor: Date:

☐ Exam ☐ Photos ☐ Dig/Phone ☐ Protocol ☐ Video Reviewed By:
Copies of Report Sent to: ☐ DOVA Date: ☐ LE Date: ☐ DSS Date: ☐ Other Date:

(F1)

PHYSICAL EXAMINATION RECO

Stamp Plate
Name of Patient

Patient Name: Minor

Date: 11/6/02

-GS-02-1333

GENITAL EXAM			
Female	WNL	ABN	Describe
Labia Majora	/		
Labia Minora	/		
Clitoris	/		
Periurethral Tissue/ Urethral Meatus	/		
Perihymenal Tissue	/		
Hymenal Introitus	/		
Hymen: ☐ Crescentic ☒ Annular ☐ Redundant	/		
Other:			
Clefts (Location)	/		
Transection	/		
Concavity	/		
Narrowing	/		
Other:			
Vagina	/		
Vaginal Discharge	/		
Fossa Navicularis	/		
Posterior Commissure or Posterior Fourchette	/		
Condyloma	/		Treated (Method):
Acetic Acid Diagnostic	NA		
Describe: Normal genital exam using labial traction. Edges of hymen conformed to gloved fingers.			
Exam Position Used: ☒ Supine ☐ Prone or Knees/Chest ☐ Supporter's Lap			
Comments: Normal genital exam (F2)			
Effect of Support Person: ☒ Cooperative ☐ Uncooperative ☐ Supportive ☐ Unsupportive ☐ Hostile ☐ Flat ☐ Ambivalent			
Examiner's Signature: [Signature] Date: 11/6/02			

FEMALE/MALE ANAL EXAM			
	WNL	ABN	Describe
Perineum	/		
Buttocks	/		
Perianal Skin	/		Large skin tag @ 11 o'clock
Tone	/		
Anal Verge/Folds Rugae	/		
Condyloma	/		
Anal Tags	/		As above
Anal Fissures	/		
Reflex Dilatation	☒ No ☐ Yes		
Stool in Rectum	☐ No ☐ Yes		NA
Method of Exam for Anal Tone: ☐ Observation ☐ Digital Exam			
Exam Position Used: ☐ Supine ☐ Lateral Recumbent ☐ Prone or Knees/Chest ☐ Supporter's Lap			
Describe: Normal anal exam			
Anoscopic Exam: ☒ No ☐ Yes			
Proctoscopic Exam: ☐ No ☐ Yes			
Genital Exam Using: ☒ Direct Vision ☐ Colposcope			
Photos Taken: ☒ No ☐ Yes - Number Taken:			

II. ED CONTACT SHEET - SHORT FORM (FOR LESS THAN 6 SERVICE DAYS OR LESS THAN 45 CALENDAR DAYS)

PATIENT'S NAME AND I.D.#

Minor

9623690

SERVICE RENDERED

- a. ☐ CRISIS MANAGEMENT
b. ☒ ASSESSMENT - MHP
c. ☐ OTHER (SPECIFY) -

1333

REFERRAL SOURCE

Aiken S.D.

REASON FOR REFERRAL

Forensic eval

GS-02

IDENTIFYING DATA AND PERTINENT CLINICAL INFORMATION

1. Age, race, gender: Minor is a ~~minor~~ 10. white female
2. Medical Hx: None reported
3. Psychiatric Hx: None reported
Mother's live-in boyfriend reportedly is bipolar.
4. Social Hx (e.g., family composition, school): Minor had been living w/ mother & her boyfriend before alleged abuse came to light. She is a 7th grader @ New Ellington Middle School
5. Substance Abuse / Use: None reported

04

BRIEF CLINICAL NOTE

1. MSE: appearance, orientation, mood, thought, SI / HI, motoric behavior.
Minor presents w/ flat affect, low verbalizations, high anxiety.
She is functioning adequately at school & home, but is frightened & depressed.
2. Note sources of data and summary impressions ARC intake, police reports, interviews w/ parent & child, TSCC. Minor is presenting w/ symptoms of depression, anxiety, dissociation. She needs to be assessed further and should begin treatment.

DISPOSITION AND RECOMMENDATIONS (SPECIFY SHORT TERM TREATMENT PLAN AND GOALS IF ADDITIONAL CONTACTS NEEDED)

Minor

is referred for assessment & therapy by a competent professional in her area. Mother will arrange for this ASAP and will contact ARC if she has trouble locating an appropriate therapist.

(F-3)

PROVIDER'S SIGNATURE, TITLE AND DATE

Aiken S.D. B. [Signature]

11/8/02

Aiken Dept. of Public Safety L
DATE: 01/19/2005
TIME: 11:22:04

A E G I S P U B L I C S A F E T Y S Y S T E M

ADULT PROFILE SHEET

ORI#: SC0020100 A D P S

PAGE 1
PL0290
NCORLEY

PACKET#	NAME	DRIVER LIC	STATE SOCIAL SECURITY			
0040A	WILLIAMS, LORA,		000-00-0000			
ADDRESS:	1078 MADISON AVE1	AIKEN SC	PHONE: 652-1361 D.O.B:			
RACE: WHITE	HEIGHT: 100	WEIGHT: 000	EYE COLOR:			
		HAIR COLOR:	BUILD:			
			GLASSES:			
SUBJECT CASE#	CASE DATE	CASE TYPE	SUBJECT TYPE	PRIMARY	CASE STATUS	CASE LOCATION
1998-00025903	03/17/1998	CRIMSEXCDT	COMPLT	NO	Unfounded	123 DUPONT DRNE

LD4 -GS-02- 1333

TO WHOM IT MAY CONCERN:

I MICHEAL WILLIAMS HAVE A STATEMENT TO MAKE!!! LAURA BECKY WILLIAMS IN THE PAST TOUCHED ME IN A SEXUAL MANNER WHEN I WAS YOUNGER. SHE HAS HAD COUNTLESS AFFAIRS WITH OTHER MEN WHILE BEING MARRIED TO MY FATHER (MICHEAL C. WILLIAMS SR.)!!! I REMEMBER WHEN I WAS YOUNGER SHE WAS SEPARATED WITH MY FATHER AND HER AND HER BOYFRIEND AT THE TIME GUY THOMPSON USED TO ABUSE ME AND MY SISTER. THEY KEPT ME AND MY SISTER JENNIFER NICOLE WILLIAMS FROM OUR FATHER FOR ABOUT 2 MONTHS. SHE USED TO SMOKE MARIJUANA AND DRINK BEER WHILE ME AND MY SISTER WAS IN THE ROOM.. MY MOM HAD AFFAIRS AT THE NURSING HOME SHE USED TO WORK AT WITH PATIENTS AND SHE HAD AN AFFAIR WITH A COWORKER. THAT'S WHY SHE WAS FIRED FROM THEIR. SHE HAD AFFAIRS WITH MY DAD'S FRIENDS AND NEIGHBORS. FOR INSTANTS JERRY SANDER, CHRISTOPHER LYLE, JOE CLEAVENGER, NOEL GRAY, RANDY KISSIAH, RUSSLE PICKERING, JOE PICKERING, RANDY PICKERING, MARION DYCHES THAT I KNOW OF. I ALSO KNOW THAT SHE HAS MADE PASSES AT LINDA AND Minor SHE IS AT NOW. I ALSO HAVE SUSPICION THAT SHE IS HAVING A COWORKER AT THE JOB

SINCERELY,
MICHEAL C. WILLIAMS JR.

Micheal Williams Jr.

Sept. 30, 2004

To whom it may concern,

This is a letter to inform you about the reliability of the statements of Lora Becky Williams. I have been married to her for almost 20 years, and I cannot trust her around any man or child. She has countless affairs during our whole marriage. There has been a number of my friends and neighbors that she has slept with. Some of them were in front of our baby girl. She has gone to counseling about her problem but it did not help. Becky has been fired from her job as a CNA for misconduct with some of the male patients at the nursing home. She has also made a false police statement claiming rape when she got caught having sex with a coworker at the same nursing home. Becky has also lied to my Grandmother about me having an affair with Mrs. Brown which was not true. It has costed me a house in Alabama for her lies. She was also caught messing around with her sister's baby girl. My son also told me that she tried to mess with him in a sexual manner. For some reason Becky has been jealous of Mrs. Brown for a long time. Becky has been trying to hurt her any way she can. Not in a physical way. She has had an affair with Mrs. Brown's husband, even in front of her. I have seen it also and heard them when I called from the hospital, when I was sick. Becky has also had an affair with Noel Gray after I got home from having surgery on my neck. This I saw for myself. I have never heard or seen Mrs. Brown in the same room with them while they were having sex. I have know Mrs. Brown for 25 years and I know that she would never do anything the bring harm on any of her children. I would stake my life on it.

Sincerely

Mike Williams,

GS-02-1333

04



OFFICE OF THE SOLICITOR SECOND JUDICIAL CIRCUIT VOLUNTARY STATEMENT FORM

RULE
TO
DATE 10/19/04

This is the statement of: [Redacted] Age: [Redacted] DOB: [Redacted] SSN# [Redacted]

Address: [Redacted]

Telephone: Day [Redacted] Evening [Redacted]

I, London Brown, hereby make the following statement freely and voluntarily, without any threats or coercion. I understand that I am free to walk away without saying anything, and I volunteer the following information of my own free will, for what ever purpose it may serve. I can cannot read and write and have completed the GED grade in school.

SB I met Noel Gray Jr. thru a Birthday Party for Mike Williams - 2001. Noel had sex on numerous occasions during the time we lived with Mike & [Redacted]. We slept in tent, where he rubbed & fell on me & had sex with my daughter, he placed my daughter on his lips, I'm not sure if tongue was in her mouth, I found my daughter in the tent where it was in the garage, she & he claimed to be talking & I would make her come out, I was 2B drugged several times by Noel. There were a couple occasions where she slept in the bed by me, due to the fact she had nightmares, I would hold her in my arms. I woke up on a couple of the occasions & caught him trying to have sex with her, & for him to stop sex ever from my daughter. We went to Myrtle Beach, he tried to break into the tent where my daughter was sleeping & couldn't get in due to a lock being in tent. One of the others with our group caught him having sex with a young girl on the beach. Prior to this he walked my daughter to our tent.

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

This statement was completed at 11:40 AM on the 15th day of Oct 2004.

Witness: [Redacted]

Signature of the person giving statement

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 1st DAY OF Oct, 2004

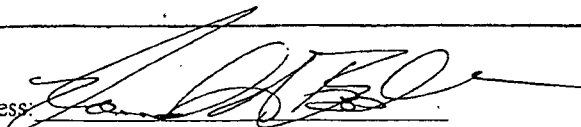
Stephanie R. Powers
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES February 7, 2005

Witness: [Redacted]

SB tried to force her to have sex she said NO for him to get away from her, he stopped her & called her a slut. & came forward me where I had already started down toward store which was near our campsite area. My Daughter called him numerous times into any room or tent to have consensual sex with her. She told papa Noel was her Boyfriend. SB

04 -GS-02- 1333

Witness:



Witness:

Signature of person giving statement



RULE 10
 TO 2
 DATE 10/1

I, Minor _____, hereby make the following statement freely and voluntarily, without any threats or coercion. I understand that I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purpose it may serve. I can ~~cannot~~ read and write and have completed the 9th grade in school.

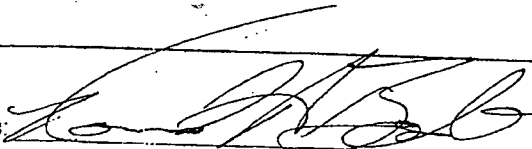
04 GS-02-1333

With Ma. She told him to leave me alone But he w
listen to her. When we moved into the next house
would come into where I was sleeping and have sex. I
told my mom that I was having Nightmares and that
he was just holding Ma until I go to sleep. At Myrtle
Beach he call me into the tent where he was and w
me to have sex with him. I told him No and then he
called me a Slut and slapped Ma on the face. There
was no tongue involved in any of this. Minor

Nothing More

GS-02-1333
04

Witness: _____



Minor

Signature of person giving statement

Witness: _____

ORIGINAL FILE

FEB 26 2003

IN THE DISTRICT COURT OF THE UNITED STATES
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

LARRY W. PROPPS, CLERK
COLUMBIA, SC

UNITED STATES OF AMERICA

vs.

NOEL GRAY

) CRIMINAL NO.: 1.03 - 263

) 18 U.S.C. § 922(g)(1)

) 18 U.S.C. § 924 (a)(2)

)

)

)

)

)

INDICTMENT

COUNT 1

THE GRAND JURY CHARGES:

On or about September 13, 2002, in the District of South Carolina, NOEL GRAY, having been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess in and affecting commerce, a firearm, that is, a Universal Firearm Model 1000 Military, .30 carbine caliber rifle, which had been shipped and transported in interstate commerce;

In violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

A TRUE BILL

/s/

FOREPERSON Harry Shaw III

/s/ J. Strom Thurmond, Jr.

J. STROM THURMOND, JR. (lw)
UNITED STATES ATTORNEY

04 GS-02-1323

Possible penalties for 18 USC 922(g):

18 U.S.C. § 924(a) - a maximum term of imprisonment of ten (10) years, a fine of \$250,000 and a term of supervised release of not more than three (3) years in addition to any term of imprisonment, plus a special assessment of \$100.00.

04 GS-02-1333

United States District Court District of South Carolina

FILE

NOV 12 2003

LARRY W. PROPPES, CL

UNITED STATES OF AMERICA

vs.

NOEL GRAY

THE DEFENDANT:

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 198Case Number: 1:03cr0263 (1)

ENTERED

AFPD Katherine Evatt
Defendant's Attorney

NOV 13 2003

- ☒ pleaded guilty to count one (1) of the Indictment on July 23, 2003
- ☐ pleaded nolo contendere to count(s) on which was accepted by the court.
- ☐ was found guilty on count(s) on after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
<u>18:922(g)(1); 924(a)(2)</u>	Please see indictment.	<u>September 13, 2002</u>	<u>1</u>

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s).
- ☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States.
- ☐ Forfeiture provision is hereby dismissed on motion of the United States Attorney.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court or United States attorney of any material change in the defendant's economic circumstances.

Defendant's USM No.: 09632-032November 5, 2003
Date of Imposition of Judgment

Defendant's Residence Address:

1022 Green Up Street
Covington, Kentucky 41011A TRUE COPY
Attest: Larry W. Proppes, Clerk
By: Patrick Michael Duffy, Deputy Clerk

Signature of Judicial Officer

Defendant's Mailing Address:
1022 Green Up Street
Covington, Kentucky 41011PATRICK MICHAEL DUFFY, U.S. District Judge
Name and Title of Judicial Officer
November 10, 2003
Date

GS-02-1335

04

199
30

—

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA)

vs.)

NOEL GRAY)

PRESENTENCE INVESTIGATION REPORT

Docket No.: 1:03-263

Prepared For: The Honorable Patrick Michael Duffy
United States District Judge

Prepared By: Cecile N. Makhuli
Senior U.S. Probation Officer
Columbia, SC
[REDACTED]

Assistant U.S. Attorney
Leesa Washington
1441 Main Street, Suite 500
Columbia, SC 29201
[REDACTED]

Defense Counsel
Katherine E. Evatt, AFD
1901 Assembly Street, Suite 200
Columbia, SC 29201
[REDACTED]

Sentence Date: To be set by the Court

Offense: Count One: Felon in Possession of a Firearm that had Been Shipped and Transported in Interstate Commerce, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2)
10 years imprisonment/Not more than 3 years supervised release/\$250,000 fine/\$100 special assessment/Class C felony

Release Status: The defendant was arrested in the Eastern District of Kentucky on April 17, 2003. Pursuant to a Rule 40 motion, the case was transferred to the District of South Carolina on April 28, 2003. On May 15, 2003, the defendant appeared before the Honorable United States Magistrate Bristow Marchant, at which time he was detained. The defendant is presently incarcerated at the Lexington County Detention Center, Lexington, South Carolina.

Detainers: None

Codefendants: None

Related Cases: None

Date of Guilty
Plea: July 23, 2003

04 GS-02-1335

Noel Gray
Docket No.: 1:03-263

Victim Impact

16. There are no identifiable victims of the offense.

Adjustment for Obstruction of Justice

17. The Probation Officer has no information to suggest that the defendant impeded or obstructed justice.

Adjustment for Acceptance of Responsibility

18. The defendant was interviewed at the Lexington County Detention Center on August 18, 2003, at which time he discussed his role in the instant offense. According to the defendant, sometime in September 2002, the son of a friend broke into several homes in the Aiken County area. During one of those incidents, the son stole a rifle belonging to the defendant's girlfriend's parents. The son reportedly hid the firearm in a wooded area. When the defendant found out where the firearm was, he traveled to the wooded area and retrieved the firearm. He reportedly called his girlfriend's mother to advise he had located the firearm. The defendant indicated he traveled to the Wal-Mart and bought firearm cleaning materials, after which he cleaned the firearm. He also put the firearm in a waterproof casing and placed it in the bed of his truck. The following day, the police arrived at his residence and questioned the defendant about possession of a weapon. According to the defendant, the boy's father had called law enforcement officers to advise them the defendant was in possession of that firearm. The defendant readily admitted to possessing the firearm and promptly turned it over to law enforcement officers. The defendant also admitted that, at the time he possessed the weapon, he was aware he was a prohibited person after having been convicted of a felony which carried a term of imprisonment exceeding one year.

a truck in
backyard

Offense Level Computations

19. The 2002 edition of the Guidelines Manual has been used in this case because it is currently in effect and is no more punitive than the edition that was in effect when the offense was committed.

Count One - Felon in Possession of a Firearm that had Been Shipped and Transported in Interstate Commerce

20. **Base Offense Level:** The United States Sentencing Commission Guideline for violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2) is found in U.S.S.G. § 2K2.1(a)(4)(A) and calls for a base offense level of 20 in that the defendant committed the instant offense subsequent to sustaining a felony conviction for a crime of violence.

GS-02-1333

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

DEC - 3 2003

HARRY W. PROFFER, CLERK

AIKEN DIVISION

UNITED STATES OF AMERICA)
) CR. NO. 1:03-263
 v.) (PMD)
)
)
 NOEL GRAY)

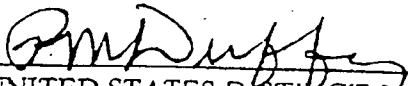
WRIT OF HABEAS CORPUS AD PROSEQUENDUM

The Defendant, Noel Gray, is presently in federal custody at the Lexington County Detention Center awaiting prison designation.

It further appears that there are unserved State warrants regarding State charges pending against the Defendant in the Aiken County Court of General Sessions for the Second Judicial Circuit.

IT IS THEREFORE ORDERED that the United States Marshals Service shall make the Defendant available to the Aiken County Sheriff's Office so that he may appear before the Aiken County Court of General Sessions for the Second Judicial Circuit, at such time and place as the Defendant may be designated by the court for proceedings in the case until the conclusion.

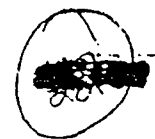
IT IS FURTHER ORDERED that the Aiken County Sheriff's Office shall return the Defendant to the custody of the United States Marshals Service and or the Lexington County Detention Center as soon as the case is concluded and that nothing in this order is to affect the date of Defendant's prison designation. Furthermore, the Defendant is to remain in custody at all times until returned to federal custody.


UNITED STATES DISTRICT JUDGE

Columbia, South Carolina

December 2nd, 2003

04 GS-02-1333



ON MOTION OF:

J. STROM THURMOND, JR.
UNITED STATES ATTORNEY

By: *Leesa Washington*

LEESA WASHINGTON #6973
Assistant United States Attorney
1441 Main Street, Suite 500
Columbia, South Carolina 29201
~~██████████~~

10
04 -GS-02- 1333

2
Per

~~████████████████████~~

~~██████~~

~~██████~~

BOOKING REPORT

AIKEN COUNTY DORIS GRAVAT DETENTION CENTER

Date: 02/20/04

15 Page

BOOKING NO. : 04-020154		AGENCY ID : ACSO		MID NUMBER 282	
DEFENDANT NAME GRAY JR, NOEL EUGENE				RACE WHITE	
EYES BRO	HAIR BLK	LENGTH SHORT	HEIGHT 5' 11"	WEIGHT 190	BUILD Large
SOCIAL SECURITY NO. [REDACTED]			SKIN TONE FAR		
ADDRESS [REDACTED]			CITY AIKEN		STATE ZIP SC 29803-
ALIAS OR NICKNAME(S)				STATE DRIVERS LICENSE NUMBER GA [REDACTED]	
SEX Male	AGE 33	BIRTH DATE [REDACTED] 970	HOME PHONE [REDACTED]	MAR. STAT S	
OCCUPATION WELDER			WORK PHONE		
EMPLOYER UNEMPLOYED			EMERGENCY CONTACT LINDA BROWN		
ARRESTING OFFICER ANGLIN, CPL. T.			DATE 02/10/2004	TIME 14:50	WHERE ARRESTED AIKEN CO.
BOOKING OFFICER DOOLITTLE, CPL. J.			DATE 02/10/2004	TIME 16:05	SEARCHING OFFICER OFC. PEARSON
TRN Number:		FEDERAL NUMBER		STATE NUMBER	
CLASSIFICATION INTAKE	CELL/SECTION	BUNK	RESPONSIBLE COURT	RESPONSIBLE COUNTY	UCR REPORTING CC 07
SCARS/MARKS/TATTOOS TT. R. F. ARM-(CROSS) TT. L. U. ARM-"USMC" W/EAGLE & GLOBE					
PHONE CALL(S) MADE 1. 2. 3.			RESIDENT This Jurisdiction		
AGENCY BILLED ACSO	BILLING RATE \$ 0.00	DISPOSITION PENDING	SENTENCE LENGTH 0 YEARS 0 DAYS	SENTENCE DATE / /	
SCH. RLSE DATE / /	ACTUAL RELEASE DATE / /	HOW RELEASED		RELEASED TO	
PLACE OF BIRTH GILLETTE, WYOMING		RELEASED BY			



STATUTE CODE	F/M CHARGE	CASE/DOCKET NO.	FINE	BAIL	DISPOSITION	DATE
F-718990	F CSC W/MINOR	F-718990 02-35498	\$ 0.00	\$ 0.00	Pending	
F-718991	F CSC W/MINOR	F-718991 02-35498	\$ 0.00	\$ 0.00	Pending	
F-718985	M CRIMINAL DOMESTIC VIOLENCE	02-038206	\$ 0.00	\$ 0.00	Pending	
G-720746	F GRAND LARCENY, VALUE \$5,000 OR	02-047566	\$ 0.00	\$ 0.00	Pending	

TOTAL BAIL: \$ 0.00

X

DEFENDANT'S SIGNATURE AT TIME OF ARREST

DATE

X

OFFICER



Aiken County Sheriff's Office

Warrant Service Supplemental Report

Agency ORI:	Arrest Date:	Arrest Time:	Location:	Case No:
SC0020000	02/10/04	1345	LEXINGTON CO. D.C.	02-035498
Defendant's Name:	(Last)	(First)	(Middle)	
GRAY	NOEL	E.		

The above named subject was arrested on the above date on the following warrant(s) by the Aiken County Sheriff's Office.

Warrant No:	F-718990	Warrant No:	F-718991
Sheriff's No:	W200204531	Sheriff's No:	W200204530
Magistrate:	SULLIVAN	Magistrate:	SULLIVAN
Issue Date:	10/01/02	Issue Date:	10/01/02
Charge:	C.S.C. W/MINORS	Charge:	C.S.C. W/MINORS
Offense Date:	08/20/02	Offense Date:	07/01/01
Affiant:	INV. D. BLEVINS	Affiant:	INV. D. BLEVINS
Victim:	JUVENILE	Victim:	JUVENILE

Warrant No:		Warrant No:	
Sheriff's No:		Sheriff's No:	
Magistrate:		Magistrate:	
Issue Date:		Issue Date:	
Charge:		Charge:	
Offense Date:		Offense Date:	
Affiant:		Affiant:	
Victim:		Victim:	

Was subject taken before a Magistrate at the time of arrest?	Yes	No
Was the subject released on a P.R. Bond?	Yes	No
Was subject taken to A.C.D.C.?	Yes	No

Case is:	Active	Subject is:	Under 18
	Inactive		Over 18

Arresting Officer:	Badge No:	Date:	Approving Supervisor:	Badge No:	Date:
CPL T. AIGLIN	4678	02/10/04			

AGENCY I. D.
00020000

JUVENILE SUPPLEMENTARY REPORT

CASE NUMBER

NCIC

02-035498

☐ ORIGINAL REPORT ☒ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY Page 1 of 1 Pages
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED

Incident Type	SEXUAL ASSAULT	Date:	9-10-02	Time:	16:43
Victim's Name:	Minor	Subject Name:	GRAY JR., NOEL EUGENE		

On 2-10-04 I/O received a copy of the served warrant on Noel Eugene Gray Jr. Gray was placed in Aiken County Detention Center pending trial. I/O will remove Gray from NCIC, NIC/ W363281338.
I/O closes case arrested 18 and over.

04 GS-02-1333

SUBJECT IDENTIFIED YES ☒ NO ☐		SUBJECT LOCATED YES ☒ NO ☐		☐ ACTIVE ☐ ADM CLOSED ☐ UNFOUNDED		☒ ARRESTED UNDER 18 ☒ ARRESTED 18 & OVER		☐ EX-CLEARED UNDER 18 ☐ EX-CLEARED 18 & OVER			
son For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Extradition Denied ☐ Victim Declines Prosecution ☐ Juvenile No Custody ☐											
REPORTING OFFICER		DATE		UNIT #		APPROVING OFFICER		DATE		UNIT #	
BLEVINS		2-17-04		4163		[Signature]		2-18-04		4982	
Follow up investigation ☐ Yes ☐ No						Officer:					

Judge Thy
on 02-11-04
Type and Amount: \$20,000
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defense Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

GS-02-1333-04

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

NOV 20 2003

Liz Godard
Clerk of Court, Aiken County, S.C.
Deputy Clerk

207

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defense Attorney:

Decision:

DISPOSITION before

Judge

on

by

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

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

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Telephone:

Name:

Address:

Telephone:

CODEFENDANTS

CS-02-1333

70.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF AIKEN)

AFFIDAVIT OF INDIGENCY AND
 APPLICATION FOR COUNSEL.

STATE VS. Gray, Noel Eugene

TICKET NO. _____

ARREST WARRANT NO. _____
 AND CHARGE: _____

F-718990 CSC w/minor, E 718991 CSC w/minor
G720746 Grand Larceny > \$5000.00

1. ARE YOU PRESENTLY EMPLOYED? YES _____ NO ✓
 IF SO, STATE THE AMOUNT OF YOUR SALARY OR WAGES PER MONTH/WEEK AND GIVE THE NAME AND ADDRESS OF YOUR EMPLOYER.

NAME: _____ ADDRESS: _____

WAGES: \$ _____ NET WEEK/MONTH

2. ARE YOU PRESENTLY RECEIVING ANY MONIES FROM OTHER SOURCES OR UNEMPLOYMENT?
 YES _____ NO ✓

SOURCE _____ AMOUNT \$ 0

SOURCE _____ AMOUNT \$ 0

3. LIST BY NAME, AGE AND RELATIONSHIP TO YOU, ANY PERSONS WHO ARE DEPENDENT UPON YOU FOR SUPPORT. INDICATE BESIDE EACH HOW MUCH YOU CONTRIBUTE TOWARD THEIR SUPPORT.

NAME: _____ AGE: _____ RELATIONSHIP: _____ AMOUNT \$ 0

NAME: _____ AGE: _____ RELATIONSHIP: _____ AMOUNT \$ 0

NAME: _____ AGE: _____ RELATIONSHIP: _____ AMOUNT \$ 0

4. DO YOU OWN CASH, OR DO YOU HAVE ANY MONEY IN A CHECKING OR SAVINGS ACCOUNT?

CASH: \$ 0 CHECKING: \$ 0 SAVINGS: \$ 0

5. DO YOU OWN ANY REAL ESTATE, STOCKS, BONDS, NOTES OR OTHER VALUABLE PROPERTY, EXCLUDING ORDINARY HOUSEHOLD FURNISHINGS AND CLOTHING? YES _____ NO ✓

IF SO, SPECIFY: _____ VALUE \$ _____

6. WHAT KIND OF MOTOR VEHICLE DO YOU OWN? None

IS IT PAID FOR? YES _____ NO _____ IF MORTGAGED, AMOUNT OF PAYMENT. \$ _____

7. AMOUNT OF OTHER DEBTS, MORTGAGES, ETC.? Hospital Bills

(EX. M)

AMOUNT \$ unk

AMOUNT \$ _____

FILED February 20 2002
Shirley L. Giddens
CLERK

GS-02-1333

04

I DO SOLEMNLY SWEAR THAT THE ACCOUNT BY ME DELIVERED INTO THIS COURT WITH MY APPLICATION FOR COUNSEL DOES CONTAIN A TRUE AND FULL ACCOUNT OF ALL MY REAL AND PERSONAL ESTATE, DEBETS, CREDITS AND EFFECTS WHATSOEVER WITHOUT EXCEPTION, WHICH I OR ANY PERSON IN TRUST FOR ME HAVE OR AT THE TIME OF MY POSSESSION HAD, OR AM, OR WAS, IN ANY WAY RESPECT, ENTITLED TO, IN POSSESSION, REMAINDER OR REVERSION, AND THAT I HAVE NOT AT ANY TIME SINCE CHARGES WERE MADE AGAINST ME OR BEFORE, DIRECTLY OR INDIRECTLY SOLD, LEASED, ASSIGNED, OR OTHERWISE, OTHER THAN MENTIONED HEREIN.

I UNDERSTAND THAT THE STATE SHALL FILE A CLAIM AGAINST ME IN AN AMOUNT EQUAL TO THE COST OF REPRESENTATION, BUT THAT SUCH CLAIM SHALL NOT CONSTITUTE A LIEN AGAINST MY PROPERTY UNLESS THE CLAIM IS REDUCED TO JUDGEMENT BY ORDERS OF THE COURT AFTER GIVING ME AT LEAST THIRTY DAYS NOTICE.

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THE SOUTH CAROLINA DRIVER LICENSE LISTED BELOW WHICH WAS ISSUED TO ME IS NOT IN MY POSSESSION. THE LICENSE IS NOT SURRENDERED TO THE COURT AS REQUIRED BY LAW. THIS CERTIFICATION IS BEING MADE IN ORDER TO COMPLY WITH SECTION 56-1-365 OF THE SOUTH CAROLINA CODE OF LAWS. CONVICTION OF FALSIFICATION OF THIS STATEMENT IS PUNISHABLE BY A FINE OF ONE HUNDRED DOLLARS OR IMPRISONMENT FOR THIRTY DAYS AS ESTABLISHED BY SECTION 56-1-510 OF THE SOUTH CAROLINA CODE OF LAWS.

() DRIVER LICENSE LOST, STOLEN, MISPLACED. () IN POSSESSION OF DEFENDANT
() SURRENDERED TO _____ DATE _____

I AM FINANCIALLY ABLE UNABLE TO EMPLOY COUNSEL AND REQUEST THAT COUNSEL BE NOT BE ASSIGNED TO REPRESENT ME.

THIS 17th DAY OF Feb, 2004

W. M. Dug
DEFENDANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 17th DAY OF Feb., 2004.

William Dug
NOTARY PUBLIC OF SOUTH CAROLINA.
MY COMMISSION EXPIRES: 2-14-10

RACE: W SEX: M AGE: 33

SSN: [REDACTED]

DATE OF BIRTH: [REDACTED] -70

ADDRESS Cedar St.

CITY & STATE: New Ellenton, S.C. 29801

TELEPHONE: _____

D.L.F.: _____

MARRIED _____ SINGLE ✓

WAIVE \$25.00 YES ✓

✓ IN JAIL

OUT ON BOND

WAIVE APPOINTMENT OF ATTORNEY

✓ APPROVED _____ DISAPPROVED

PRESIDING JUDGE

William Hartman
CLERK/DEPUTY CLERK

DATE 2-17-04

04 -GS-02- 1333

August 5, 2011

Noel Gray # 307590
Murray # 212
Broad River Corr. Inst.
4460 Broad River Rd.
Columbia, S.C.

29210

Federal Medical Center
3301 Leestown Rd.
Lexington, Kentucky
40511-8799

Attention: Inmate Systems Manager.

Pursuant to Noel Gray #09632032, A Federal Interstate Agreement on Detainers Act Contract was filed May 5, 2004 by Ms. Denise Sheets, Acting Inmate Systems Manager, that was filed to the Aiken County Solicitors Office Re: Barbara R. Morgan (Received). I am fighting my case and my Federal F.A.O.A was violated by the receiving State, I'm currently in Federal Habeas Corpus at this time and I desperately need a copy in complete of my Federal I.A.O.A Contract of its intire. Please help me out here. My life is on the line. This request is pursuant to the State and Federal Freedom of Information Act under S.C. Code Ann. § 30-4-10 thru § 30-4-165 and the Privacy Act of 1974, Title 5, of the U.S.C. Section 552(a). Please note I have 20 days to submit this information, please don't let me down.

sworn and Subscribed Before me
this 5th day of August, 2011
by Susan H. Fife
Notary Public for South Carolina My Commission Expires
My Commission Expires: March 5, 2018

Respectfully Submitted.
Noel Gray #307590
Noel Gray #307590
Murray # 212
Broad River Corr. Inst.
4460 Broad River Rd.
Columbia, S.C.
29210

D-2

04 GS-02-1333



244
UNITED STATES GOVERNMENT
Federal Bureau of Prisons
Federal Medical Center
Consolidated Legal Center
3301 Leestown Road
Lexington, Kentucky 40511-8799

October 19, 2011

Noel Gray
307590
Murray #2
Broad River Corr Inst
4460 Broad River Rd
Columbia, SC 29210

Re: FOIA/PA Request No. 2011-10922

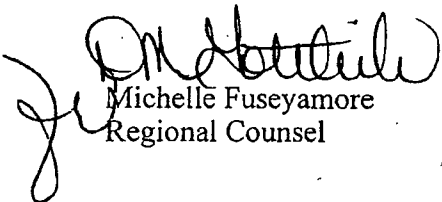
Mr. Gray:

This letter is in response to your Request for Federal Bureau of Prisons records. You requested a copy of your IAD paperwork from 2004.

We have located 11 pages in regards to your request. All 11 pages are released to you in their entirety.

We trust this will satisfy your request.

Sincerely,


Michelle Fuseyamore
Regional Counsel

1333
-10-14-11
104

U.S. MAIL

D-3

mailed 8/19/04
Sdc

The State of South Carolina
Office of the Solicitor
Second Judicial Circuit

Barbara R. Morgan
Solicitor
Serving Aiken, Bamberg,
& Barnwell Counties

Aiken County Judicial Center
109 Park Avenue, S.E.
P.O. Drawer 3368
Aiken, S. C. 29802

August 19, 2004

Warden Joe W. Booker, Jr.
Federal Medical Center
3301 Leestown Road
Lexington, Kentucky 40511-8799

RE: Interstate Agreement Request
Noel Eugene Gray, Register #09632-032

Dear Warden Booker:

In response to the request of the above inmate to be brought back to South Carolina for disposition of criminal charge(s), enclosed are two sets of Interstate Agreement on Detainers Forms VI and VII. One set of these forms are to be served on Mr. Gray.

Your cooperation is greatly appreciated and should you have any questions, please contact Diane Cox in my office.

Sincerely,



Barbara R. Morgan, Solicitor
Second Judicial Circuit

/sdc

Enclosures: 2 sets

04 GS-02 1333

U.S. Department of Justice
Federal Bureau of Prisons
Federal Medical Center
201 Leestown Road
Lexington, Kentucky 40511-0799

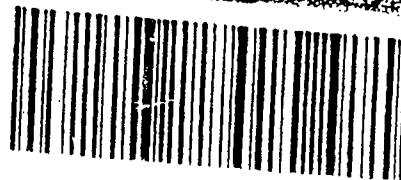
1507

RECEIVED

MAY 11 2004

SOLICITOR

CERTIFIED MAIL



7002 0860 0006 8115 4789

Barbara R. Morgan
Solicitor
Room 117
109 Park Avenue SW
Aiken, SC 29801

3331-20-SG-10

m

5-10
PLACE
RECEIVED

(21-14)



UNITED STATES GOVERNMENT
Federal Bureau of Prisons
 Federal Medical Center
 3301 Leestown Road
 Lexington, Kentucky 40511-8799

May 5, 2004

Barbara R. Morgan
 Solicitor
 Room 117
 109 Park Avenue SW
 Aiken, SC 29801

Re: Gray, Noel
 Reg. No. 09632-032

04 GS-02-1333

Dear Ms. Barbara R. Morgan:

The above named inmate has requested disposition of untried charges in your jurisdiction pursuant to the Interstate Agreement on Detainers Act (IADA). The necessary paperwork is enclosed.

We request action be taken under Article III of the IADA, and that the Form VI, "Evidence of Agent's Authority to Act for Receiving State", and Form VII, "Prosecutor's Acceptance of Temporary Custody Offered in Connection With a Prisoner's Request for Disposition of a Detainer", be submitted to us accordingly. The designated agents that return the inmate to your state must also be the persons whose signatures appear on the Form VI. Be advised the designated agents must have in their possession a copy of the Form VI, proper identification, and a certified copy of the warrant when assuming custody of the inmate.

Inmates who are temporarily transferred pursuant to the IADA remain under the primary jurisdiction of federal authorities. In conjunction with the request for disposition of pending charges, we wish to remind you that under Article V(e) of the IADA, you are required to return the above named inmate to this institution after prosecution on all pending charges in your state. If there are pending charges in other jurisdictions within your state, they will be listed on the BP-239. Copies of this process will be mailed to each jurisdiction for disposition under provisions of Article III(d) of the IADA.

(-1110100 Q)
 Inf. Brief # 23

1-8

Ms. Morgan
Page 2
May 4, 2004

While this inmate is in your temporary custody, he shall be held in a suitable jail that meets the level of security required by the Bureau of Prisons. In addition, security requirements for the inmate (e.g., type of restraints, number of escorting staff, who may transport, etc.) must be met. Any problems associated with this inmate must be reported to the individual listed below. This inmate may not be released on bail or bond while in your custody. Additionally, this inmate is not to be committed to a state correctional institution for service of any state sentence(s) that may be imposed as a result of your prosecution.

To help us with processing, please fill out the enclosed certification form and return to us before scheduling a date for assuming custody. Upon completion of the State proceeding contact this office to schedule a date for the inmates's return to federal custody.

If you have any questions on this matter, please call, Denise Sheets, (859) 255-6812, extension 300.

Sincerely,

Denise Sheets

Denise Sheets
Acting Inmate Systems Manager

enclosures: Forms BP-236, 238, 239, 565

cc: Clerk of Court
State IADA Administrator

LOU-SENSITIVE

23

(CERBERUS R)
Inf Brief # 23-1

GS-02-1333

04-02-1333

PENDING INTERSTATE AGREEMENT ON DETAINER

1) DATE RECEIVED REQUEST: 5/11/04 2) MIDWAY DEADLINE (90 DAYS): 8/11/04 3) PROSECUTION DEADLINE (180 DAYS): 11/11/04

4) NAME OF DEFENDANT: NOEL GRAY

5) SOLICITOR ASSIGNED: Everett Chandler

6) DATE SENT FOR ASSESSMENT: 5/18/04

7) DEFENSE COUNSEL: Kelly Brown

8) DECISION:

☒ TAKE APPROPRIATE ACTION(S) TO BRING DEFENDANT BACK

☐ TERM OF COURT FOR TRIAL OR PLEA

☐ DATE YOU NEED DEFENDANT INCARCERATED OR OPTIONAL 9/04
(NOTE: NEED AT LEAST TWO MONTHS TO PROCESS AND SEND OUT PAPERWORK)

9) REMOVE DETAINER: _____ (NEED TO NOTIFY LAW ENFORCEMENT AGENCY THAT PLACED DETAINER TO REMOVE AND NOTIFY APPROPRIATE AGENCIES, PREPARE REMOVE DETAINER LETTER)

10) CHECKLIST: DOES CASE NEED TO BE RESTORED, ARE ALL WARRANTS SERVED, ALL INDICTMENT(S) PREPARED, EVERYTHING IN ORDER TO PROSECUTE FOR TERM BROUGHT BACK? WERE FORMS II, III & IV RECEIVED, SIGNED (CHECK TO SEE IF WARDEN AND DEFENDANT SIGNED ALL PLACES PROVIDED ETC.). IF THERE ARE PROBLEMS WITH PAPERWORK, CALL GEORGIA DEPARTMENT OF CORRECTIONS OR APPROPRIATE AGENCY. IF PAPERS NEED TO BE REDONE, HAVE GEORGIA DEPARTMENT OF CORRECTIONS OR APPROPRIATE AGENCY SEND A STATEMENT IN WRITING.

11) COMMENTS: Judge Sullivan in New Ellenton has the pending CDV
would like to know when he arrives

12) AFTER PLEA OR TRIAL, RETURN FILE TO DIANE COX FOR IAD FORM IX PREPARATION.

13) FORM IX MAILED _____

Agreement on Detainers: Form VI

In quadruplicate. All copies, signed by the prosecutor and the agent should be sent to the Administrator of their own state. After signing all copies, the administrator should retain one for his files, send one to the warden of the institution in which the prisoner is located and return two copies to the prosecutor who will give one to the agent for use in establishing his authority and place one in his files.

EVIDENCE OF AGENT'S AUTHORITY TO ACT FOR RECEIVING STATE

TO: Jon Ozmint
Administrator of the Agreement on Detainers

Noel Gray, Register No. 09632-032
(inmate) is confined in

Federal Medical Center
(institution)

3301 Leestown Road, Lexington, Kentucky
(address)

and will be taken into custody at the institution on August 31, 2004
for return to this jurisdiction for trial on or about October 18, 2004

In accordance with Article V(b), I have designated Coley Wilson & Shawn Rinaman
whose signature appears below as agent to return the prisoner.

Shawn Rinaman 5063

SHAWN Rinaman

Barbara R. Morgan 1333
BARBARA R. MORGAN, SOLICITOR
(prosecuting official)

Coley Wilson 4496
COLEY WILSON

(agent's signature)

TO: Warden

In accordance with the above representation and the provisions of the Agreement on Detainers, Coley Wilson & Shawn Rinaman
(agent) is hereby designated as
agent for this state to return Noel Gray
(inmate) for trial

Jon Ozmint
Administrator

Agreement on Detainers: Form VII

IMPORTANT: This form should only be used when an offer of temporary custody has been received as the result of a prisoner's request for disposition of a detainer. If the offer has been received because another prosecutor in your state has initiated the request, use Form VIII. Copies of Form VII should be sent to the warden, the prisoner, the other jurisdictions in your state listed in the offer of temporary custody, and the Agreement Administrator of the state which has the prisoner incarcerated. Copies should be retained by the person filing the acceptance and the judge who signs it.

PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY OFFERED IN CONNECTION WITH
A PRISONER'S REQUEST FOR DISPOSITION OF A DETAINER

TO: Joe W. Booker, Jr., Warden Federal Medical Center
(Warden, Superintendent, Director) (Institution)
3301 Leestown Road, Lexington, Kentucky 40511-8799
(address)

1333
GS-02-2080-104

In response to your letter of 5/4/04 and offer of temporary
(Date)
custody regarding Noel Gray, Register No. 09632-032 who is presently
(Name of Prisoner)
under indictment, information, complaint in the Second Judicial Circuit of which
(jurisdiction)
I am Solicitor, please be advised that I accept temporary
(Title of Prosecuting Officer)
custody and that I propose to bring this person to trial on the indictment, information
or complaint named in the offer within the time specified in Article III(a) of the
Agreement on Detainers.

I hereby agree that immediately after trial is completed in this jurisdiction, I
will return the prisoner directly to you or allow any jurisdiction you have designated
to take temporary custody. I agree also to complete Form IX, the Notice of Disposition
of a Detainer, immediately after trial.

COMMENTS: [If your jurisdiction is the only one named in the offer to temporary custody
use the space below to indicate when you would like to send your agents to conduct the
prisoner to your jurisdiction. If the offer of temporary custody has been sent to other
jurisdictions in your state, use the space below to make inquiry as to the order in
which you will receive custody, or to indicate any arrangements you have already made
with other jurisdictions in your state in this regard.]

Signed: Barbara R. Morgan
BARBARA R. MORGAN
Title: Solicitor, Second Judicial Circuit

I hereby certify that the person whose signature appears above is an appropriate officer
within the meaning of Article IV(3) and that the facts recited in this request for tem-
porary custody are correct and that having duly recorded said request I hereby transmit
it for action in accordance with its terms and the provisions of the Agreement on
Detainers.

DATED: July 29, 2004

Signed: Reginald I. Lloyd
REGINALD I. LLOYD
(Judge)

29

IN THE COURT OF GENERAL SESSIONS
(Court)

HP-3565.051 IAD / STATE WRIT - PROSECUTOR'S CERTIFICATION FORM
 DEC 02

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF

This is to certify that I, Everette K. Chandler
 Title, Assistant Solicitor, Second Judicial Circuit
 custody of (Inmate's Name) Noel Eugene Gray, hereby request
 via XX IAD State Writ (check one), and do hereby agree to the following conditions in connection with the request for custody of said inmate.

Conditions

- Agree that said inmate will be provided safekeeping, custody, and care and will responsibility for that custody to include providing the inmate with the same security required by Bureau of Prisons Policy.
- Agree to report to the Bureau of Prisons any problems associated with said inmate include disciplinary problems, medical emergencies, suicide attempt, escape or at escape or any other problem arising during commitment.
- Agree not to release said inmate on bail or bond or to commit them to an institution service of any sentence imposed in connection with our prosecution.
- Agree to return said inmate to the federal institution from which they were obtained the conclusion of the inmate's appearance in the proceeding for which obtained.
- Agree to notify the local jail authority of the responsibility to return the inmate federal custody.

As the Prosecuting Official for the County/State of Aiken/State of South Carolina
 I, Everette K. Chandler, Title, Assistant Solicitor
 hereby submit the following information in connection with my request for temporary custody of (Inmate's Name) Noel Eugene Gray
 Federal Register No. 09632-032

Information

- Name of facility, location, contact person, and phone number where the inmate will be confined during legal proceedings.
Doris C. Gravatt Detention Center, 435 Wire Rd., Aiken, SC 29801 (803) 643-1915
- Scheduled date for trial.
October 18, 2004
- Projected date of return of the prisoner to federal custody:
November 11, 2004
- Name and phone number of the state agency, specific name of agent(s) who will transport the inmate at direction of the court and whether a private carrier, contractor (if permitted by Bureau of Prisons policy), state agency, or the USMS, will be transporting the inmate for the state.
Aiken County Sheriff's Office, 420 Hampton Avenue, SC Agents: Shawn Rinaman & Coley
- Need for appearance of inmate and nature of action.
Trial or Plea on Criminal Sexual Conduct With A Minor- 2 Counts and Grand Larceny
- For State Writ cases only (not required for IAD):
 - Name and address of court issuing writ, name of the judge, and name, address, and phone number of clerk of the court.
August 19, 2004
 - Reason production on writ is necessary and reason another alternative is not available (for civil cases).

Signature and Title of Prosecutor

Everette K. Chandler
 Assistant Solicitor
 August 19, 2004

August 19, 2004

S. Diane Cox, Commission Expires: 12/1/2013

BP-S236.051 IAD - PLACE OF IMPRISONMENT FORM
FEB 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISON

To: Barbara R. Morgan, Solicitor	Jurisdiction Circuit
Court: Aiken County	Jurisdiction Aiken, South Carolina
And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, informations or complaints are pending, you are hereby notified that the undersigned is now imprisoned in:	
Institution Federal Medical Center	Town and State Lexington, Kentucky
and I hereby request that a final disposition be made of the following indictments, informations or complaints now pending against me:	

Failure to take action in accordance with the Interstate Agreement on Detainers Act, which your state is committed by Law, will result in the invalidation of the indictments, informations or complaints.

I hereby agree that this request will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against me from your state. I also agree that this request shall be deemed to be my waiver of extradition with respect to any charge or proceedings contemplated hereby or included herein, and a waiver of extradition to your state to serve any sentence there imposed upon me, after completion of my term of imprisonment in this state. I also agree that this request shall constitute a consent by me to the production of my body in any court where my presence may be required in order to effectuate the purposes of the Interstate Agreement on Detainers Act and a further consent voluntarily to be returned to the institution in which I am now confined.

If jurisdiction over this matter is properly in another agency, court or officer, please designate the proper agency, court or officer and return this form to the sender.

Forms BP-S238(51), Certificate of Inmate Status, and BP-S239(51), Offer of To Deliver Temporary Custody, are attached.

Dated May 5, 2004	Inmate's Name and Register No. Gray, Noel <i>Noel Gray</i> 09632-032

The inmate must indicate below whether he has counsel or wishes the court in the receiving state to appoint counsel for purposes of any proceedings preliminary to trial in the receiving state which may take place before his delivery to the jurisdiction in which the indictment, information or complaint is pending. Failure to list the name and address of counsel will be construed to indicate the Inmate's consent to the appointment of counsel by the appropriate court in the receiving state.

A. My counsel is (give name) GOT A PUBLIC DEFENDER	whose address is (Street, City State, ZIP)

B. I request the court to appoint counsel. (Inmate's Signature)

Record Copy - State IAD Administrator; Copy: J&C File; Copy: Central File (Section 1), Copy: Prosecuting Official (Mail Certified Return Receipt), Copy - Clerk of Court (Mail Certified Return Receipt)

(This form may be replicated via WP)

(Replaces BP-236(58) 08-88

LOW-SENSITIVE

EXHIBIT #

GS-02-1333
04

BP-3567.051 IAD/STATE WRIT - ACKNOWLEDGMENT FORM
AUG 02
U. S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PR

This form is to be used whenever an inmate is released to state custody via I State Writ.

ACKNOWLEDGEMENT

I acknowledge that I am temporarily being transferred from federal to state custody for purposes of trial on state charges. I am aware that State officials are to release me to federal custody at the conclusion of my state trial.

I am also aware that State officials should not release me into the community. I am released by State authorities into the community. I am aware that my federal sentence will not run, and that I will not receive credit for my federal sentence any period of time I am in the community following release by the State official.

If State officials release me or transfer me to any facility, agency, or person other than Federal, I agree to immediately call the following Bureau of Prisons Office (collect, person-to-person) at the designated federal institution in which I presently incarcerated as indicated below.

In the event this official cannot be reached, I agree to contact another staff member (collect, person-to-person) in the Inmate Systems Management Department of the institution.

Inmate Printed Name and Signature Gray, Noel <i>Noel Gray</i>	Register No. 09632-032	Date May 5 2004
Staff Witness (Printed Name and Signature) Jean Myers <i>Jean Myers</i> Legal Instruments Examiner	Institution Federal Medical Center 3301 Leestown Road, Lexington, KY 40511	
Name of Staff to Contact Denise Sheets		
Title Acting Inmate Systems Manager	Phone Number 659-255-6912 #5301	

Note: By signing, staff certify that the inmate has been provided with a copy of the completed form. If the above staff member is unavailable, another Inmate Systems staff member is to be contacted.

Original - J&C File; Copy - Control Center; Copy - Operations Lieutenant; Copy - Central File;
Copy - Inmate

(This form may be replicated via WP)

Replaces BP-3567 of FEB 84

(21-21)

~~EXHIBIT 10~~
~~EXHIBIT 10~~

BP-3239.051 OFFER TO DELIVERY TEMPORARY CUSTODY CFRM
FEB 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF

DATE: May 4, 2004

To: Solicitors Office

Name:

Barbara R. Morgan, Solicitor

Jurisdiction
Aiken Coun

And to all other prosecuting officers and courts of jurisdiction list below from which indictments, information or complaints are pending.

Re: (Inmate Name)

Gray, Neil

Register No
09632-032

Pursuant to the provisions of Article V of the Interstate Agreement Detainers Act between this state and your state, the undersigned hereby offer temporary custody of the above-named prisoner to the appropriate authority in your state in order that speedy and efficient prosecution may be had in indictment, information or complaint which is described in the attached in request.

The required Certificate of Inmate Status is enclosed.

If proceedings under Article IV(d) of the Interstate Agreement on Detainers are indicated, an explanation is attached.

Indictments, informations or complaints charging the following offenses are pending against the inmate in your state and you are hereby authorize transfer the inmate to custody of appropriate authorities in these jurisdiction purposes of these indictments, informations or complaints.

Offense

County or other Jurisdiction

If you do not intend to bring the inmate to trial, will you please inform us as as possible? Kindly acknowledge.

By: (Chief Executive Officer)

Joe H. Becker, Jr., Warden

D. Sheets

Institution and Address

Federal Medical Center

3301 Leestown Road,

Lexington, KY

Name/Title Custodial

Authority

Harley G. Lappin,

Director

1333

GS-02

04

Record Copy - State IAD Administrator; Copy - J & C File; Copy - Central File (Section 1);
Prosecution Official (Mail Certified Return Receipt); Copy - Clerk of Court (Mail Certified
Receipt)

EXHIBIT

BP-S233.051 IAD - CERTIFICATED OF INMATE STATUS CDFRM
FEB 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Inmate's Name Gray, Ross	Register No. 09522-012	Institution Federal Medical Center

Institution's Address
3301 Leestown Road
Lexington, Kentucky 40511-8799

The (Custodial Authority) hereby certifies:

1. The term of commitment under which the prisoner above named is being held
30 months
2. The Time Already Served
386 days
3. Time Remaining to be Served on the Sentence
1 years 1 month 13 days
4. The Amount of Good Time
117 days possible
5. The Date of Parole Eligibility of the Prisoner N/A
6. The decisions of the U.S. Parole Commission relating to the Prisoner
N/A
7. Maximum expiration date under present sentence: 06-18-2005
8. Detainers currently on file against this inmate from your state are as follows: Aiken County Sheriff's Department: Criminal Sexual Conduct with Minor, Grand Larceny, Criminal Domestic Violence.

Dated May 5, 2004	Name and Title of Custodial Authority Harley G. Lappin, Director	By: (Chief Executive Officer) Joe W. Booker, Jr., Warden <i>[Signature]</i>

Record Copy - State IAD Administrator; Copy - S & C File; Copy - Central File (Section 1); Copy - Prosecuting Official (Mail Certified Return Receipt); Copy - Clerk of Court (Mail Certified Return Receipt)

(This form may be replicated via WP)

Replaces BP-233(59) 6F OCT

LOW-SENSITIVE

65-02-133

(27-13)

(3-1)

14

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE PROPERTY INVENTORY**

7/
Transporting officers
Bowman Sgt.
Etheridge

Seal Number _____

Date

Institution/Center

SCDC Number

Name (Last)

(First)

(Middle I.)

Purpose of Inventory (Check One)

- ☒ Arrival at R&E Center
☐ Property taken prior to institutional transfer
☐ Other (explain) _____

- ☐ Prior to being placed in lockup
☐ Directed by the Warden/Designee

Other Property

- ☐ Drivers License# and State _____
☐ Social Security Card _____
☐ Medical Card(s) (list) _____
☐ Credit Card(s) _____
☐ Others (list) _____

CONFISCATED CONTRABAND ITEMS (List each) 2 Lg. Boxes marked Federal Property / 1 Federal I.O.

PERSONAL/CANTEEN ITEMS (LIST ALL AVAILABLE INFORMATION)

QUANTITY	CONDITION	MAKE	MODEL	COLOR	SERIAL NUMBER
Television (1)					
Radio (1)					
Styler (1)					
Fan (1)					
Ice Chest (1)					
Lamp (1)					
Curling Iron (1)					
Clock (1)					
Electric Shaver (1)					
Coffee Pot (1)					
Hair Dryer (1)					
Single Outlet Dropcord (1)					

OTHER PROPERTY (LIST QUANTITY OF EACH)

Ashtray (plastic) (1)
 Backpack (1)

Headset (1)
 Jacket (1)

Shorts (athletic) (2)
 Skirts** (1)

1352
 7659

DNA NOTICE & PAYMENT PROCEDURES

41

South Carolina law requires that individuals who have been convicted of certain offenses must provide a blood sample from which DNA may be obtained. Recent changes have been made to this law and this notice indicates how this law applies to you. Section 23-3-620 of the S.C. Code of Laws lists the offenses that require the submission of a sample. You have been convicted of one of the offenses listed in Section 23-3-620, and an appropriate individual will be taking a sample from you from which DNA may be obtained. Under Section 23-3-670 of the S.C. Code of Laws, a person who must provide a sample from which DNA may be obtained must also pay a processing fee of \$250. Therefore, you must pay SCDC \$250. If you do not have the funds necessary to pay this processing fee, SCDC is authorized by section 23-3-670 of the S.C. Code of Laws to take certain steps to collect the \$250 fee from you. Under this law, SCDC will deduct or withhold certain monies until you have met your responsibility regarding the \$250 processing fee.

After your blood sample has been provided, you may file an inmate grievance if you believe that the law should not apply to you because of your commitment offense, or if you object to any actions taken by SCDC regarding the processing fee. To receive information about filing an inmate grievance you should contact your institutional grievance coordinator.

The following options are available to inmates when making payments regarding DNA Samples.

1. **COOPER TRUST FUND:** Inmates may choose to pay the full fee of \$250 now to avoid automatic fee deductions. An inmate must authorize SCDC to deduct \$250 from his/her Cooper Trust Fund account by completing SCDC Form 15-1, "Cooper Trust Fund Withdrawal" and directing the funds to be made payable to SCDC for DNA Fee. No payment for less than \$50 will be accepted unless the amount equals the remaining fee balance.
 2. **DIRECT PAYMENT:** In order to avoid automatic deductions and by-pass the Cooper Trust Fund, an inmate may have the fee of \$250 paid by a non-incarcerated individual utilizing the EXACT instructions available from your institutional mailroom. **NOTE:** By utilizing this method, money will not be sent to the Cooper Trust Fund.
- AUTOMATED PAYMENT DEDUCTIONS:** If you fail to utilize option #1 or #2 above, the SCDC will automatically deduct the \$250 from available funds if the law applies to you.

Inmate Pay: Monies paid to inmates through the SCDC inmate pay program will be deducted for payment of the fee as follows. Inmates paid more than \$5 for the biweekly inmate pay period will have 25% of inmate pay deducted for the DNA fee.

Prison Industries Private Sector Enhancement & Community Services Work Release Programs: Monies paid to inmates participating in these programs will be deducted for payment of the fee. Up to 5% of monies paid will be deducted for the fee, if available, after other mandatory deductions have been taken. If an inmate is removed from these programs, the closeout checks will be subject to the charge.

E.H. Cooper Deposits: Inmates receiving deposits into their E.H. Cooper Trust Fund will have 10% of those deposits retained to pay for DNA fees.

My signature acknowledges that I have read the above and fully understand what is expected and required of me.

[Signature]
Inmate Signature

307590
SCDC #

Witnessed by:

[Signature]
SCDC Employee

2/18/05
Date

Site: Institutional Record
Canary: Inmate

SCDC Form 18-15 (Rev. September 2004 - Previous Editions of this form cannot be used)

04-GS-02-1333

04

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
RECORD SUMMARY REPORT DATED 01/06/12

~~32~~ 37

GRAY, JR., NOEL EUGENE FBI # 2426741 AA STD# SC01524223 SCDC # 307590
 OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE
 INSTITUTION...: BROAD RIVER CORR. INST.
 SECURITY/CUST.: 3 MINIMUM IN
 CURR INCARC SENT...: 999 YRS 0 MOS 0 DYS
 CENTRAL MONITORING.: YES
 SOCIAL SECURITY #....
 BORN.....: MU0212R
 RACE.....: W SEX.....: M
 PROJ MAXMIT DATE: 99/99/9999
 PROJ PAROLE DATE: 00/00/0000
 FWC INR...: HORTICULTURE TRAINF
 FWC PGM...: HORTICULTURE
 FWC LEVEL: 3F5 FFC LEVEL:
 ASSIGNMENT...: VNC SCHOOL

CURRENT PROGRAM...: NO CURRENT PROGRAM
 AGE...: 41 DATE OF BIRTH...: ---

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE	SENTENCE
	YRS MOS DYS COUNTY	START U/NO CATER
CRIM SEX COND.U/MINOR(2N	999 99 999 AIKEN	2/ 2/20 5 U 4
CRIM SEX COND.U/MINOR(2N	999 99 999 AIKEN	2/ 2/20 5 U 4
PRIOR COMMITMENTS OVER 90 DAYS:		
4/17/ 3 *POSSESSION OF WEAPON	0 YRS 30 MOS 0 DYS	
3/21/ 2 *SEX OFF REG 1ST OFF	0 YRS 12 MOS 0 DYS	
3/29/89 *CRIM SEX COND.U/MINOR(2ND	10 YRS 0 MOS 0 DYS	
DETAINEES (HOLD, WANTED, NOTIFY):		
FUGITIVE FROM JUSTICE	NOTIFY	OPEN ARREST NOTIFICATION CATER: 4
NO DETAINEES		

ESCAPES:

4/14/ 3 OTHER ESCAPE RELATED CODE NOT IN TABLE

CRIMINAL CHARGES:

AND CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

AND ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

5/21/ 8 FAILURE TO WORK

HISTORY OF MOVEMENTS:

OTHER

2/ 2/ 9	BROAD RIVER	INCARCERATED	RETURN FROM COURT
1/30/ 9	AIKEN CO	AUTH ABSENCE (AWI)	TO COURT
5/19/ 8	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
5/19/ 8	KIRKLAND	INCARCERATED	MEDICAL
9/28/ 5	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
4/17/ 5	KIRKLAND	INCARCERATED	ADMINISTRATIVE
→ 2/18/ 5	FEDERAL INST.	AUTH ABSENCE (AWI)	SERVING SC SENT IN D.I
2/15/ 5	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB	START	END	TERMINATION	REASON
DESCRIPTION	DATE	DATE		
HORTICULTURE TRAINEE	03/15/11	07/ 0/ 0		
HORTICULTURE TRAINEE	06/09/09	3/14/11	INMATE REQUEST	
WARDKEEPER ASSISTANT	07/31/08	6/ 8/ 9	LATERAL TRANSFER	
FOOD SERVICE AIDE	04/17/08	7/30/ 8	REDUCTION IN FORCE	
FOOD SERVICE AIDE	12/06/07	4/14/ 8	REMOVAL FROM 7 DAY CREDIT	
WARDKEEPER ASSISTANT	04/05/07	12/ 5/ 7	INMATE REQUEST	
HORTICULTURE TRAINEE	12/19/06	4/ 4/ 7	INMATE REQUEST	
INDUSTRIES TRAINEE	09/14/06	12/12/ 6	INMATE REQUEST	
WARDKEEPER ASSISTANT	03/23/06	2/13/ 6	INMATE REQUEST	
INDUSTRIES TRAINEE	01/12/06	3/22/ 6	INMATE REQUEST	
WARDKEEPER ASSISTANT	02/22/05	1/11/ 6	INMATE REQUEST	

HISTORY OF EARNED EDUCATION CREDITS:

DESCRIPTION	START	END	TERMINATION
	DATE	DATE	REASON

04-65-02-1333

(A5)

227

GRAY, JR., NOEL EUGENE FBI # 2426761AA STD# SC01524223 SCDC # 307590 (CON
AND SCHOOL ASSIGNMENTS*

***** END OF REPORT *****

38

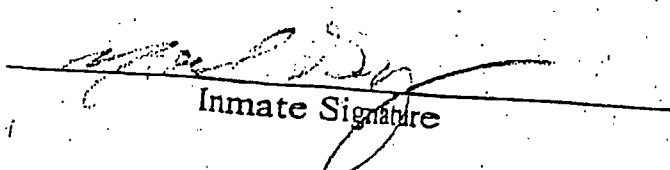
65-02-1333

104

(A6)

INDIGENT INMATE REQUEST FORMInmate Name GRAY, NOELPod: D. 120Date: 2-28-05

I am requesting the issue of an indigent paper pack. I am without funds for two weeks and do not anticipate receiving funds anytime soon. I agree if funds arrive in the future, you may debit my account the cost of this packet, which is .90 (cent).


Inmate Signature

Booked 2/21/05 -

Not eligible for Indigent
until next week - 3/7/05

(PT)

133

STAFF

INMATE SUPPLEMENTAL GRIEVANCE FORM

NAME: Gray Noel E.
(LAST) (FIRST) (MIDDLE INITIAL)

DATE: 02-27-05

HOUSING ASSIGNMENT: D-1207
(UNIT and NUMERIC ASSIGNMENT)

ON May 5th 2004 I was sent here on A I.A.D.A. Interstate Agreement on Detainers. I arrived here Sept. 1st 2004 by 2 officers of Bloodhound. I recieved my time on Feb. 2nd 2005. And the federal Authorities were supposed to be contacted for transport back to my federal medical Center in Lexington Ky. I was not supposed to be transferred to any State Institution my I.A.D.A was violated and my personal belongings were destroyed at R+E. That I need. Also my federal Identification was destroyed. This error has cost me greatly. Has the federal Authorities been contacted And I want to be sent to my federal Center A.S.A.P. I Also Informed several officer's about me not being transferred. Mr. Gray, You will need to address this matter with SCDC - They destroyed your belongings. Property Total \$2000.00

Mr. E. D. Gray
INMATE SIGNATURE

At. Carter

(~~EXHIBIT 11~~)

INMATE SUPPLEMENTAL GRIEVANCE FORM

NAME: GRAY NOEL E.
(LAST) (FIRST) (MIDDLE INITIAL)

DATE: 02-28-05

HOUSING ASSIGNMENT: D-120 T
(UNIT and NUMERIC ASSIGNMENT)

Capt. Eagerton, on May 5th 2004 THE FEDERAL FILED A
I.A.D.A. INTERSTATE AGREEMENT ON DETAINERS ACT. The
Federal Government was supposed to be notified once my time
was given. They were not notified. I was not supposed to
be committed to any State Correctional Institution. I was,
on Feb. 15th. This violated the I.A.D.A. My rights were
violated. My personal Belongings were destroyed at R & E
as well as my federal Identification. 2 boxes that
were supposed to go back to federal with me were
destroyed as well as cmt supplies, Tennis shoes, Ball caps,
Hygiene supplies etc. Now This error has cost me greatly.
my lawyer has already been contacted As well as the feds.
what is going to be done I told SGT. Bowman That I was
not supposed to be transferred No Body listened to me,
now what is going to be done about this error I want
to be returned to my federal Institution A.S.A.P.
Property Total \$2000.00

Noel Gray
INMATE SIGNATURE

(~~REDACTED~~)

44
1333
GS-02

04

INMATE SUPPLEMENTAL GRIEVANCE FORM

NAME: Gray Jose E
(LAST) (FIRST) (MIDDLE INITIAL)

DATE: 03-09-05

HOUSING ASSIGNMENT: D.120.5
(UNIT and NUMERIC ASSIGNMENT)

ON Feb. 15th 2005, Due to the Aileen Co. Detention Centers neglect on my Interstate Agreement of Detainers Act, being violated my federal belongings were destroyed. Barbara Morgan, the Aileen Co. Detention Center Attorney and I were issued federal information concerning this I.A.D.A. It was not the S.C.D.C. fault me going to state prison so due to this error being the A.C.D.C.'s fault my personal belongings be reimbursed to me. The situation is in black and white. This Inmate is in "temporary" custody of the A.C.D.C. This inmate is "Not" to be transferred to any State Correctional Institution due to any effects of prosecution. I would like my stuff to be returned to me or the external Affairs will be contacted. Pay my lawyer. Estimate of Retainer Fee \$2000.00

[Signature]
INMATE SIGNATURE

[Signature]

CCIT-20-57-40
04-05-02-1330

Received in District Court
11:30 pm

BP-3368.052 ADMINISTRATIVE DETENTION ORDER CDFRM

MAY 94

U. S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

dinal

FMC Lexington, KY

Institution

Date/Time: 3-15-2005 6:00PM

TO: Special Housing Unit Officer

FROM: Ralph Duron, Lieutenant (Name/Title)

SUBJECT: Placement of Gray, Noel Reg. No. 09632-032 Administrative Detention

- (a) Is pending a hearing for a violation of Bureau regulations;
 (b) Is pending investigation of a violation of Bureau regulations;
 (c) Is pending investigation or trial for a criminal act;
 (d) Is to be admitted to Administrative Detention

(1) Since the inmate has requested admission for protection;

I hereby request placement in Administrative Detention for my own protection.

Inmate Signature/Register No.:

Staff Witness Printed Name Signature:

(2) Since a serious threat exists to individual's safety as perceived by staff, although the person has not requested admission; referral of the necessary information will be forwarded to the UDC/DHO for appropriate hearing.

(e) Is pending transfer or is in holdover status during transfer.

XXX (f) Is pending classification; or

(g) Is terminating confinement in Disciplinary Segregation and has been ordered into Administrative Detention by the Warden's designee.

It is this officer's decision based on all the circumstances that the above named inmate's continued presence in the general population poses a serious threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution because*

Pending Classification

Therefore, the above named inmate is to be placed in Administrative Detention until further notice. The inmate received a copy of this Order on (date/time) 3-15-2005 6:00PM

Staff Witness Signature/Printed Name C.O. Stump Date 3-15-2005

*In the case of DHO action, reference to that order is sufficient. In other cases, the officer will make an independent review and decision, which is documented here.

Record Copy - Inmate Concerned (not necessary if placement is a result of holdover status); Copy - Captain;
 Copy - Unit Manager; Copy - Operation Supervisor - Administrative Detention Unit; Copy - Central File

(This form may be replicated via WP)
 BP-308(52) of JAN 88

Replaces

(EXHIBIT 1)

65-02-133-70-99-70

UNITED STATES PROBATION OFFICE

1835 ASSEMBLY STREET, ROOM 611
COLUMBIA, SC 29201-2445

OFFICIAL BUSINESS

Noti Gary Jr.
307596
Mu212 B

RECEIVED

SEP 22 2011

PRCI
WARDEN'S OFFICE



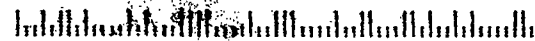
SEP 21 2011

PRCI
MAILROOM

MR. RATTIFORD
CASEWORKER MURRAY

12-12-11

23210+4047





UNITED STATES PROBATION OFFICE
DISTRICT OF SOUTH CAROLINA

*Professionalism is the Standard!
Excellence is the Goal!*

DICKIE BRUNSON
CHIEF U.S. PROBATION OFFICER

REPLY TO:

Columbia Probation Office
Strom Thurmond Federal Building
1835 Assembly St., Rm. 611
Columbia, SC 29201-2445
Tel: 803-253-3310
Fax: 803-765-5420

September 20, 2011

Robert M. Stevenson III, Warden
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Noel Eugene Gray, Jr.
SCDC#00307590

Dear Warden Stevenson:

The above named inmate was sentenced by the Honorable Patrick Michael Duffy on November 5, 2003, to 30 months custody in the United States Bureau of Prisons to be followed by a 3 year term of supervised release for Unlawful Possession of Firearms.

The purpose of this correspondence is to inform you that inmate Gray has a 3 year term of supervised release following his release from his current state sentence. **Upon release, he is instructed to contact the U. S. Probation Office, 1835 Assembly Street, Room 611, Columbia, SC 29201, telephone number 803 253-3310, within 72 hours of release from state custody. Failure to follow these instructions will result in the issuance of a warrant for Failure to Report.**

We are providing a copy of this correspondence to inmate Gray and would respectfully request that you explain to Gray the importance of complying with these instructions.

If you have any questions, please contact me at 803 253-3848.

Sincerely,

Todd E. Salley

Todd E. Salley
Supervising U. S. Probation Officer

Received 12-12-11/caseworker
cc: Noel Eugene Gray, Jr.

04 GS-02 1333

36

Conditions of Probation and Supervised Release

UNITED STATES DISTRICT COURT

FOR THE
District of South Carolina

Name: NOEL GRAY
Address: 1022 Green Up Street
Covington, Kentucky 41011

Docket No.: 1:03-263

Under the terms of this sentence, the defendant has been placed on supervised release by the Honorable Patrick Michel Duffy, United States District Judge for the District of South Carolina. The defendant's term of supervision is for a period of three (3) commencing upon release from the Bureau of Prisons.

While on supervised release, the defendant shall not commit another federal, state or local crime. The defendant shall not illegally possess a controlled substance.

If the judgment imposed a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervision in accordance with any Schedule of Payments set forth in the Criminal Monetary Penalties sheet of the judgment. In any case, the defendant should cooperate with the probation officer in meeting any financial obligations.

The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons (supervised release only).

☐ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921 (Check if applicable.)

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

It is the order of the Court that the defendant shall comply with the following standard conditions:

- (1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
- (2) The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- (3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- (4) The defendant shall support his or her dependants and meet other family responsibilities;

(A4)

U4
65-02-1333

Packet #4

Copies

FILED September 24 2002 EXHIBIT #13

L. J. Godard
C.C.C.P. & G.S.Charles S. Westall / November 14, 2002
CSW

Dear Mrs. Godard,

This letter is in regard to my court Rule 5. Please maam, I would like to request copies of my complete Rule 5 and a P.C.R. Application please.

This request is understanding that I really need these document, so that I can prepare for my Post Conviction Relief.

Your time in this matter is greatly appreciated. Thank You.

P.S. I have no funds to pay for Copies. Please help.

Respectfully Submitted
Noel Gray # 307590
B.R.C.I.
Monticello Unit #193
4460 Broad River Rd.
Columbia, SC.

29210

State
V.

Noel E. Gray Jr.

Indictment / case #

2004-65-02-1333

A/W# F718991

D.O.O. 7-1-2001 - 11-30-2001

S.C. code § 16-3-655(2)

COR code # 0/3/9/6

Indictment / case #

2004-65-02-1334

A/W# F-718990

D.O.O. 8-8-2002 - 9-30-2002

S.C. code § 16-3-655 (3)

C.O.R. code # 0/3/9/7

FILED November 27 2002
L. J. Godard
C.C.C.P. & G.S.
Sharon Higgins
Deputy Clerk

Sent PCR App.
+ warrant + Sent + IND.

GS-02-1333

04

2004-65-02-1333

Noel Gray #307590
Monticello #193
Broad River Corr. Inst.
4460 Broad River Rd.
Columbia, SC.

(Legal Emergency Response)
A.S.A.P.

COLUMBIA SC 292

03 MAY 2006 PM

29210

RECEIVED

MAY 02 2006

BRCI
MAILROOM

LEGAL

29802+0583

LIZ GODARD
CLERK OF COURT
P.O. Box 583
Aiken, SC.

29802-0583

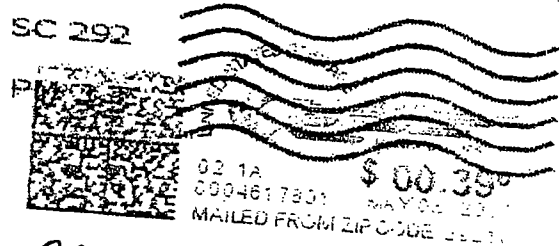
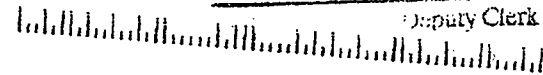
FILED

May 5 2006

Liz Godard

Deputy Clerk

Deputy Clerk



2004-GS-02-1333

-1334

-1335

04 GS-02-1333

EXHIBIT #15

292

05-258

2004-GS-02-1333
-1334
-1335

5-1-06

THE STATE OF SOUTH CAROLINA

EXHIBIT 16

~ PLAINTIFF ~

GRAY, NOEL #307590

DOCKET # 2004-GS-02-1333

DOCKET # 2004-GS-02-1334

~ DEFENDANT ~

AIKEN CO.

COURT OF GENERAL SESSIONS

MOTION FOR GOB

- Retrieval of my complete Discovery -

I Gray, Noel motions to the court to make Kelly Perkins Brown "Public Defender", Bennie Williams "Investigator" and Barbra Morgan "Solicitor" to send me all cogs of my Discovery included past conviction and Federal I.A.D.A paper work. Medical Records, Statements from Sherriffs Dept. Tim RANDALL and David Blevins, Jury names and addresses, Judge name and address, All letters to and from all parties, Witness Statements, Supeanas, D.S.S paperwork, names and paper work of Bringing me down from Kentucky and taking me back, "Officers Names", I.A.D.A. Interstate Agreements on Detainers Act.

Copy sent to

The Kelly Brown

Judge Dept. Court

Solicitor

Copy Return to Defendant

This is respectfully Submitted

Respectfully

Noel Gray #307590

MONTICELLO #193

4460 Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, SC 29210

FILED

May 5 2006

L. J. Howard

Clerk of Court

cc: / FILE

-GS-02-1333

04

August 13, 2000

NOEL GRAY # 307590
MONTICELLO # 153
BROAD RIVER CORR. INST.
4460 BROAD RIVER RD.
COLUMBIA, SC. 29210

KELLY PERKINS BROWN
AIKEN COUNTY PUBLIC DEFENDER'S OFFICE
PO DRAWER BOX 2247
AIKEN, SC. 29302

1777
GS 02

EXHIBIT # 22

DEAR MS. BROWN,

I've wrote you several times asking you to send me back 'ALL' Documents pertaining to my case and you still have not fully complied, nor have you given me an explanation as to why you have not, or could not meet these requests. Also after the "STATE BAR" has told you to full fill my request, you still refuse to comply with my constitutional rights.

Therefore, please take notice that I'm asking you once again under the provisions set forth in the FREEDOM OF INFORMATION and PUBLIC RECORDS ACT(S). And also, THE FREEDOM OF INFORMATION and PRIVACY ACT(S) FEDERAL Pursuant to FEDERAL FREEDOM OF INFORMATION ACT, 5 U.S.C.A. § 552, and pursuant to the South Carolina Code of Laws (1976) Titles 30-4-10 thru 30-4-110. Also, pursuant to the Supreme Court Rule 32, Code of Professional Responsibilities; DRB-101 (A) (3) § 7, A(3), and Matter of Haddeek, 321 S.E. 2d 601 (1984). "Client's file belongs to the Client and should be returned at Client's Request." Therefore, in light of these decisions, I do request

Once again that you promptly return to me all files in your office's possession concerning any representation of me by your office. I am also requesting that you send me any and all letters (copies) to and from your office, Exhibits, Affidavits, Police Reports "Aiken Co. Sheriff's Dept." and New Ellenton Police Dept. sled reports, Medical Reports, Information from Attorney George Bush From Augusta, Ga., D.S.S. files, and all other files that you have in your possession concerning my case and your representation of me. Your office has (5) five working days to comply with, or request for a reasonable extension of time if needed to prepare these documents. At any rate, it must be fully complied with at the end of the (5) day period or on the 6th day, I will file to the Court of Common Pleas for declaratory judgement under S.C. Code of laws (1976) Titles 30 4-100, and under the Federal Act. Title 42 U.S.C.A. §(1983) for compliance with this Federal law.

Your Cooperation in this matter will be greatly appreciated.

Respectfully Submitted,

s/ Noel E. Gray Jr.

Noel E. Gray Jr. # 307590

s/ Noel Gray

ALSO I WANT TO REQUEST THE FULL NAME, ADDRESS AND PHONE NUMBER OF ATTORNEY GEORGE BUSH AUGUSTA, GA.

Subscribed and signed before me this 14th day of August, 2006
Edward W. [Signature]
 Notary Public

My Commission Expires July 29, 2007

04 GS-02-1333



950 Taylor St.
PO Box 608
Columbia, SC
803-799-6653 F
803-799-4118 F
www.scbat.org

u/p

ADVANCING JUSTICE
PROFESSIONALISM
AND UNDERSTANDING
OF THE LAW

December 6, 2005

Mr. Noel Eugene Gray Jr.
B. R. C. I Unit 193
4460 Broad River Road
Columbia, SC 29210

Re: File from Ms. Kelly Perkin Brown

Dear Mr. Gray:

The Client Assistance Program is in receipt of your correspondence regarding obtaining your file from the above referenced attorney. We have contacted her and asked the she comply with your request. Should you need any further assistance, please contact us.

Best wishes,

Client Assistance Program
SC Bar

(Letter, Reporting that Public Defender would not send my)
Discovery at all.

(B-10)

*Aiken County Clerk of Court
Criminal Division*

*P. O. Box 583
Aiken, S.C. 29802-0583
Phone: 803-642-1715*

GS-02-1333

AUGUST 23, 2011

MR. NOEL GRAY # 307590
MURRAY # 212
BROAD RIVER CORRECTIONS INST.
4460 BROAD RIVER ROAD
COLUMBIA, SC 29210

MR. NOEL GRAY

OUR OFFICE DOES NOT HAVE ACCESS TO MRS. BROWN WORK RECORD OR
EXPERIENCE. I DO NOT KNOW OTHER THAN ASKING HER EMPLOYER OR SC BAR.
MAYBE WRITE TO HER AND ASK FOR A RESUME.

MRS. KELLEY BROWN
PUBLIC DEFENDER OFFICE
P.O. DRAWER 2247
AIKEN, SC 29802

I HAVE FILED YOUR LETTER AND REQUEST.

Best Regards,



Deputy Clerk

*Sent Copies to Ms. Brown
Re sent sent. 30, 2011*

EXHIBIT #1

104 GS-02-1333

Noel E. Gray Jr. #307590
Murray 212
4460 Broad River Rd.
Columbia, S.C. 29210

August 29, 2011

Kelly Perkins Brown Esq.
Aiken County Public Defender's Office
410 Barnwell Ave. N.W.
P.O. Drawer 2247
Aiken, S.C. 29802

RECEIVED

AUG 29 2011

BFOI
MAILROOM

Dear Ms. Brown,

This lawful request of information is being sought pursuant to the Federal Freedom of Information Act's (F.F.O.I.A.'S), 5 U.S.C. Section 552, [and the Privacy Act (PA), 5 U.S.C. Section 552(a)], and S.C. Code Ann. §§ 30-4-10 thru §§ 30-4-165 (1991 and Supp. 2005).

Please be advised that as the requested information is solely for litigational purpose, and shall not be made commercial or public in use. That above cited F.O.I.A.'S grant for a waiver of any/all fee's related to research, copy, return postage, and review to determine if any exemption within cited F.I.O.A.'S apply.

Please note that by these grants as a indigent litigant affiant does not expect to be charged fee's for said services

EXHIBIT #23

Cited F.O.I.A's also allows that all the requested must be provided to affiant, but that Social Security, Bank and Credit Card accounts numbers may be segregated (blackened) and balance forwarded to affiant with exact exemption granted by F.O.I.A's cited.

INFORMATION REQUESTED AS FOLLOWS :

- 1) All Files/Documents whatsoever related to 2004-GS-02-1333-1334 known to be, or with your authority to command to be in your Possession.
- 2) All Subpoena's filed by your office in 2004/2005 by Bennie Williams Forensic Investigator for Aiken County. Subpoena #1 Tim Randall #4122 Aiken County Sheriffs Office and Investigator Hew Ray of the New Ellenton Police Department to Appear in Court. Subpoena #2 George Bush Attorney At Law 410 N 4th St. Augusta, GA. (Obtained by Lindi Brown and Mike Williams 2001-2002 to Appear in Court. Subpoena #3 for production of all documents, pictures, letters, Birth Certificates, Photo Albums, Blue 5 Star 3 ring note book with Langer and Restitution and Traveling information in that was subpoenaed to Court by Ina Bennie Williams.
- 3) Address and name of Head over Victim Services located at the Kalamazoo Plaza.
- 4) A complete copy of All Case/Docket Numbers for All S.C. Code of Law § 16-3-655 cases (Criminal Sexual Conduct) that you Kelly Perkins Brown have represented from Law School to February 20, 2005 to include but not limited to names of Defendant -

and prosecutor and outcomes Guilty, Not Guilty etc. etc.
by Jury Trial or plea agreement.

5.) Complete D.N.A Files from Sled pertaining to Noel Gray E. Jr.
2004-GS-02-1333/1334

6.) Complete D.N.A files from Sled pertaining to the alleged victim
Kristina M. Brown 8/8/88

7.) Complete Medical Records from the Aiken Regional Medical Center
E.R. on Oct. 2002, pertaining to Alleged victim Kristina M. Brown.

8.) Complete Copy of your investigations and contacts of the
~~alleged~~ prior Conviction Research you alleged to have done.

9.) All Letters to and from your Office from Sept. 2004 to May 2005,
pertaining to 2004-GS-02-1333-1334.

Affiant request a timely (F.O.I.A's grant 20 days,
reply to this request with a Clock Stamped Received copy of
this request, and awaits your reply.

s/ Noel May #307590 / Affiant

All rights reserved

CC/FILE / S.C. Court Admin. / S.C. Bar Assn.

Sworn and subscribed before me into a lawful document of
Request before me the / a duly Authorized Notary for the Public
of the State of South Carolina on this 29 day of Aug
_____, 2011. A reply is lawfully commanded
in this matter.

s/ Eugene Pettit
Notary Signature / Seal

My Commission Expires April 4, 2018

My Commission Expires.

Noel Gray #307590

Murray #212

Broad River Corn Inst
4460 Broad River Rd.
Columbia, S.C. 29210

C/A: 2004-65-02-1333/1334

DECLARATION OF SERVICE
BY U.S. MAIL.

To Kelly Perkins Brown Esq.
Aiken County Public Defenders Office
410 Barnwell Ave. N.W.
P.O. Drawer 2247
Aiken, S.C. 29802

I Noel Gray #307590 the undersigned, declares:

I am a party of this action acting in "Good Faith"
On August 29, 2011, I the petitioner/Affiant in Pro-Per, I served
the within notice of the Federal Freedom of Information Act's
(F.F.O.I.A's), 5 U.S.C. § 552, [and the Privacy Act (PA), 5 U.S.C.
§ 552(a)] and S.C. Code Ann. § 30-4-10 through § 30-4-165 -
(1991 and Supp. 2005). Declaration of Noel Gray #307590
In Good Faith to the following interested parties by mailing,
with postage pre paid and a true copy thereof to:

Kelly Perkins Brown Esq.
Aiken Co. Public Defenders Office
410 Barnwell Ave. N.W.
P.O. Drawer 2247
Aiken, South Carolina 29802

CROWN

An

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Legal Issue or Lawyer/Firm Name

Augusta, GA



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Home > South Carolina > Aiken County > Aiken > Kelley Perkins Brown

Kelley Perkins Brown

Legal Experience: 14 years

Jurisdictions: South Carolina

AIKEN, SC 29802
 (803) 642-1739

Practice Areas
 Products Liability

Education
 School

University of South Carolina

Focus

Degree

Year

1997

Professional Affiliations

Position

Member, South Carolina State Bar

Barnwell Products Liability Lawyers
 Cayce Products Liability Lawyers
 Chapin Products Liability Lawyers
 Columbia Products Liability Lawyers
 Aiken County Products Liability Attorneys

Gaston Products Liability Lawyers
 Greenville Products Liability Lawyers
 Leesville Products Liability Lawyers
 Lexington Products Liability Lawyers
 Barnwell County Products Liability Attorneys

North
 Orange
 Saluda
 West
 Saluda

Noel Gray #307590
 Murray # 212
 Broad River Corr. Inst.
 4460 Broad River Rd.
 Columbia, South Carolina
 29210

September 29, 2011

Honorable Clerk of Court's Office
 2nd Judicial Circuit Court House
 P.O. Box 583
 Aiken, South Carolina
 29802-0583

RECEIVED

SEP 29 2011

BRCI
 MAILROOM

Dear Honorable Clerk of Court,

This lawful request of information is being sought pursuant to the Federal and State Freedom of Information Act's (F.S.F.O.I.A) - 5 U.S.C. § 552 [and the Privacy Act (PA), 5 U.S.C. § 552 (a)], and South Carolina Code Ann. §§ 30-4-10 & 30-4-165 (1991 - Supp. 2005)

Also this requested information is solely for litigational purposes, and shall not be made commercial or public in use. And the South Carolina Bar instructed to obtain this vital information from your office.

- REQUESTED INFORMATION -

1. A complete print out regarding All cases /Docket Numbers for all cases pertaining to a Sexual Nature, prosecutor and outcomes

of Plea Agreements, Trial Court, Guilty, Not Guilty etc. etc,
that Aiken County Public Defender Kelly Perkins Brown Esquire has
represented in the Open Court System since her Graduation from
the University of South Carolina 1997 to February 10, 2005 also
included All Jury Trials between the above dates.

Affiant requests a timely (F.S.F.O.I.A's) grand
15 working days reply to this request with a Clock Stamped
received copy of this request, and awaits your reply. Also is
enclosed a Self addressed Envelope.

✓ Noel Gray #307590

All Rights Reserved

cc/File / S.C. Court Admin.

Sworn and Subscribed before me
this 29 day of Sept, 2011

X Eugene Peritt
Notary Public for South Carolina

My Commission Expires April 4, 2016
My Commission Expires: _____

04 05-02-1000

Application To Proceed without Payment
of Costs And Affidavit in Support
there of

I Noel Gray #307590 hereby apply for leave to proceed in this Federal and State Freedom of Information Act Request without payment of fees or costs or security therefore. 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 request or give security there of

Noel Gray #307590
Applicant

Sworn and Subscribed before me ~~this~~
this 29 day of Sept, 2011

x Eugene Keith
Notary Public for South Carolina

My Commission Expires: April 4, 2016

- GODARD CLERK OF COURT

P.O. BOX 583

AIKEN, SC 29802

CM
7/2/09

NOEL GRAY # 307590
MURRY #224
BROAD RIVER CORRECTIONS
4460 BROAD RIVER ROAD
COLUMBIA, SC 29210

MR GRAY

OUR FILES CONSIST OF WARRANTS, INDICTMENTS, SENTENCE SHEET, MOTIONS IF ANY AND MISC
LETTERS AND PCR FILED BY YOU . THE ITEMS YOU REQUEST IS NOT A PART OF OUR FILE AS YOU HAVE
BEEN TOLD IN LETTERS BEFORE

YOUR ATTORNEY OF RECORD IS KELLEY PERKINS BROWN
P.O.DRAWER 2247
AIKEN, SC 29802

SOLICITOR ADDRESS IS

STROM THURMOND JR,
P.O. DRAWER 3368
AIKEN, SC 29802

D. Sims
Deputy Clerk

Resent on 9-14-09
For letter Dated on 9-14-09

RECEIVED
SEPT. 16. 2009

~~(5) EXHIBIT 5 of 22~~

104-6062-1030

Office of the Public Defender / Second Judicial Circuit

410 Barnwell Avenue N.W.

Post Office Box 2247

Aiken, South Carolina 29802

September 23, 2011

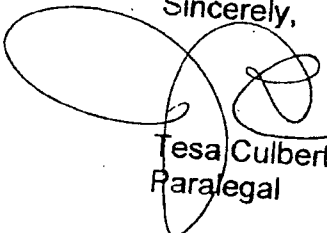
Mr. Noel Gray, 307590
Broad River Correctional Inst
4460 Broad River Road
Columbia, South Carolina 29210

Dear Mr. Gray:

We have received your letter dated August 29, 2011 requesting information from your case. Your file had to be requested from storage. It will be 2 - 3 weeks before you receive anything else regarding the requested information.

Should you have any further questions, please do not hesitate to contact us.

Sincerely,


Tesa Culbertson
Paralegal

/tpc

RECEIVED

OCT 07 2011

BRCI
MAILROOM

Noel Gray # 307590

Murray # 212

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, S.C. 29210

October 6, 2011

Chief Public Defender
Willis Alves Esq.
P.O. Box 2247
Aiken, S.C. 29802

EXHIBIT # 2 - 1

Dear Chief Public Defender

This lawful request of information is being sought pursuant to the Federal and State Freedom of Information Acts (F.S.F.O.I.A) 5 U.S.C. § 552 [and the Privacy Act (P.A.) 5 U.S.C. 552 (a)], and South Carolina Code Ann. §§ 30-4-10 through §§ 30-4-165 - (1991 - Supp. 2005).

This information requested is solely for litigational purposes, and shall not be made commercial or public use. And the South Carolina Bar and the Aiken County Clerk of Court's Office instructed me to obtain this vital information from you.

- Requested Information -

1. A complete printout of all cases/Docket Numbers pertaining to a Sexual Nature, prosecutor and out comes of plea Agreements, Trial Court, Guilty or Not Guilty, Jury Trial's

that Kelly Perkins Brown Esq. Aiken County Public Defender
has represented in the open Court System "TO Bar" since
her Graduation from the University of South Carolina 1997
to February 20, 2005. This is an Official Request for her
Complete Resume

Affiant requests a timely (F.S.F.O. I.A.) grant
15 working days to reply to this request with a clocked
Stamped received 'Copy of Request' and awaits your reply.
Also enclosed is a Self addressed envelope for your use.

Yvel Yary #307540

All Rights Reserved

CC/File / S.C. Court Admin / S.C. Bar.

Seen and Subscribed before me
this 24th day of October, 2011

Suzanne H. Frye
Notary Public for South Carolina.

My Commission Expires
March 5, 2018

My Commission Expires: _____

Noel Gray #307590
 Murray #212
 Broad River Corr. Inst.
 4460 Broad River Rd.
 Columbia, S.C.
 29210

TO: Aiken County Chief Public Defender
 Aiken Co. Public Defenders Office
 410 Barnwell Ave. N.W.
 P.O. Drawer 2247
 Aiken S.C. 29802

October 6, 2011

DECLARATION OF SERVICE BY U.S. MAIL

I Noel Gray #307590 the undersigned, declares:

I am a party of this action acting in "good faith" on October 6, 2011, did in fact served the within notice of the Federal and State Freedom of Information Act (F.S.F.O.I.A) 5 U.S.C. § 552 [and the Privacy Act (PA) 5 U.S.C. § 552(a) South Carolina Code of Laws Ann. §§ 30-4-10 through 30-4-165 (1991 / Supp. 2005).

Declaration in "Good Faith" to the following interested parties by mailing with postage paid and a true copy thereof to in the U.S. mail

/s/
 Chief Public Defender
 P.O. Box 2247
 Aiken, S.C. 29802

04-65-02-1333

2) South Carolina Court Admin.
S.C. Supreme Court
1015 Sumter St. Suite 200
Columbia, S.C. 29201

3) S.C. Bar
350 Taylor St.
P.O. Box 608
Columbia, S.C. 29202

1335
-GS-UZ-
04

Second Judicial Circuit Public Defender

Aiken County Office

410 Barnwell Avenue N.W. EXHIBIT # 2

Post Office Box 2247

Aiken, South Carolina 29802

Telephone: (803) 642-1732 Fax: (803) 642-1739

De Grant Gibbons, Chief Circuit Public Defender

Wallis A. Alves, Chief Public Defender

Kelley Perkins Brown, Deputy Public Defender

Michael Routzong, Assistant Public Defender

C. David Hayes, Assistant F

Barry Thompson, Assistant

Andy Smith, Assistant Publ

October 7, 2011

Mr. Noel Gray, #307590
Broad River Correctional Institute
Murray 212
4460 Broad River Road
Columbia, SC 29210

Dear Mr. Gray:

Please find enclosed another copy of your client file. I have not provided you information requested from your letter dated August 29, 2011. I have provided you another copy of your client file.

Sincerely,

Kelley Perkins Brown
Kelley Perkins Brown
Deputy Public Defender

~~EXHIBIT # 20~~

EXHIBIT # 20

#7

104 GS-02-1332

PUBLIC DEFENDER FOR THE SECOND JUDICIAL CIRCUIT

410 Barnwell Avenue NW
Post Office Drawer 2247
Aiken, South Carolina 29802

EXHIBIT # 5

October 13, 2011

Noel Gray 307590
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: FOIA request

1437
63-02-
04

Dear Mr. Gray:

You requested a printout of all cases pertaining to a sexual nature that Kelley Perkins Brown handled between 1997 and February 20, 2005. This office does not have any records to identify specific charges handled by a particular attorney between 1997 and 2005. Therefore, I do not have the ability to provide the printout that you are requesting.

Attorney Brown has been employed by this office since 1998. I have enclosed a copy of the resume which has been kept as part of her personnel file since that time.

Wishing you well, I am

Sincerely,



Wallis Alves
Chief Public Defender for Aiken

/wa

22-12

EXHIBIT # 23

Kelley Perkins Brown
 [REDACTED]
 [REDACTED]
 [REDACTED]

Education:

EXHIBIT #6

University of South Carolina School of Law
 Columbia, South Carolina
 Juris Doctor Degree, May 1997
 Cumulative GPA: 3.108

Honors and Activities:

Hoefer-Toal Scholarship Recipient
 Student representative to the Academic Standing Committee, 1995-1997
 Dean's List (Fall 1996)
 Student Directory section editor, 1995
 Member of Phi Delta Phi

Presbyterian College

Clinton, South Carolina
 Bachelor of Arts in Political Science, May 1994
 Minors in History and English
 Cumulative GPA: 3.827

Honors and Activities:

Graduated *Summa Cum Laude*
 1994 Outstanding Senior in Political Science
 Dean's List (all semesters)
 Member of Omicron Delta Kappa
 Member of delegation to South Carolina Student Legislature, Chairperson 1993

Employment:

Braithwaite, McCants & Smith, Aiken, South Carolina

Law Clerk, May 1995 to Present
 Legal research, preparation of responses to discovery requests, review of appeal briefs and records on appeal, preparation of deposition summaries, maintenance of law library, performance of other tasks as required.

Kennedy and Price, Columbia, South Carolina

Office Runner, October 1994 to May 1995

Presbyterian College Library, Clinton, South Carolina

Student Services Librarian's Assistant, August 1990 to May 1994
 Conducted computer on-line research for faculty and students, assisted the reference librarian as needed.

References:

Please see attached references

[REDACTED]
 [REDACTED]
 [REDACTED]

(6771 921)

04 GS-02-1333

Kelley Perkins Brown
[REDACTED]
[REDACTED]
([REDACTED]) [REDACTED]

EXHIBIT #7

References:

Braithwaite, McCants & Smith
[REDACTED]

Aiken, South Carolina 29801

(803) [REDACTED]

Robin A. Braithwaite, Esquire

Clarke W McCants, III, Esquire

Gary H. Smith, III, Esquire

Professor Robert M. Wilcox

University of South Carolina School of Law
Columbia, South Carolina 29208

([REDACTED]) [REDACTED]

Richard L. Pearce, Esquire

Assistant Public Services Director

South Carolina Bar Association
[REDACTED]
[REDACTED]
([REDACTED]) [REDACTED] ext. # [REDACTED]

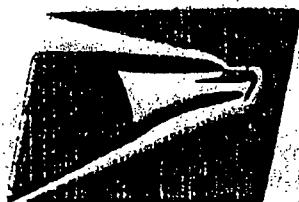
GS-02-1333

(EXHIBIT # 22)

57

EXHIBIT # 3

EXHIBIT 30-85 40.



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1333 20-59

Kelley Perkins Brov
Second Judicial Circ
Post Office Drawer
Aiken, South Carolin

Mr. Noel
Broad Ri
Murray 2
4460 Bro
Columbia

Country or Destination:



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STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

THE STATE OF SOUTH CAROLINA,

vs.

NOEL EUGENE GRAY, JR,

Defendant

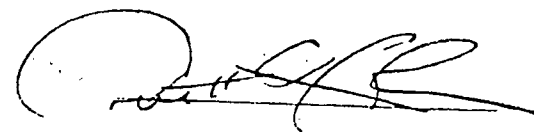
) IN THE COURT OF GENERAL SESSIONS
) Indictment No: 2004-GS-02-1333, 1334
)

) NOTICE OF INTENT TO SEEK LIFE
) IMPRISONMENT SENTENCE
)
)
)
)
)

TO: NOEL EUGENE GRAY, JR, DEFENDANT, AND HIS ATTORNEY OF
 RECORD, KELLEY P. BROWN.

YOU WILL PLEASE TAKE NOTICE, that the Solicitor's Office intends to seek a life imprisonment sentence pursuant to Section 17-25-45 (A), S.C. Code of Laws 1976, as amended, upon the basis that you have one or more prior convictions for:

1. a most serious offense [to wit: _____];
2. a federal or out-of-state offense that would be classified as a most serious offense under this section [to wit: Aggravated Child Molestation (Ga Code Section 16-6-4 (c))]; or
3. any combination of the offenses listed in items (1) and (2) above.



Everett K. Chandler

Assistant Solicitor

2nd Judicial Circuit

Aiken, S.C.

January 10, 2005

04 -GS-02- 1333

EX#1



JAN 10 2005

The State of South Carolina

Office of the Solicitor

Second Judicial Circuit

Barbara R. Morgan
Solicitor
Serving Aiken, Bamberg,
& Barnwell Counties

Aiken County Judicial
109 Park Avenue, S
P.O. Drawer 3368
Aiken, S. C. 2980
(803) 642-1557
Fax (803) 642-753

January 10, 2005

Attorney Kelley P. Brown
Deputy Public Defender
Post Office Box 2247
Aiken, South Carolina 29802

EXHIBIT PACKAGE

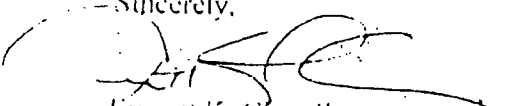
RE: DEFENDANT: Noel Eugene Gray, Jr.
Case No: 2004-GS-02-1333
2004-GS-02-1334

Dear Attorney Brown:

By this letter, the State is informing you that we intend on pursuing a jury trial against the above Defendant on charges listed in the above indictments and we will be seeking the mandatory sentence of life in prison without parole, per the requirements of Section 17-25-45 (A) of the South Carolina Code of Laws.

We are prepared to call this case as early as the week of January 24, 2005. If you have any questions or would like to review any discovery materials, please feel free to contact me.

Sincerely,



Everett K. Chandler
Assistant Solicitor

cc: Mr. Noel Eugene Gray Jr.

The Defendant

Noel Eugene Gray aka J.R.

~~waives~~ waives five days notice C.F.
waives copy of Indictment and list of
witnesses, also waives being formally
arraigned and pleads not guilty. Defendant further waives notice
of arraignment.

John W. Davis
(District Attorney)

Noel E. Gray
(Defendant)

John W. Davis
(Defendant's Attorney)

(Date) 11/16/89

The Defendant

waives copy of Indictment and list of
witnesses, also waives being formally
arraigned and pleads not guilty.

(District Attorney)

(Defendant)

(Defendant's Attorney)

(Date)

COURT'S
EXHIBIT

205
1333

4

STATE'S WITNESSES:

GEORGIA, GLYNN COUNTY

The defendant, Noel Eugene
Gray aka "J.R."

hereby changes his plea from one
of not guilty to one of (guilty) (note
contenders to both counts.

This the 25th day of Jan., 1990

John W. Davis
Asst. District Attorney

Noel E. Gray Jr.
Defendant

John W. Davis
Defendant's Attorney

GEORGIA, GLYNN COUNTY

I, do certify that the within and foregoing is a true, complete and
correct copy of the original in said case, as appears by the orig-
inal on file and of record in the office of the Clerk of Glynn
Superior Court, Brunswick, Georgia.

Witness my hand and the seal of said court this the
7th day of January, 1990.

We, the Jury, find the Defendant

This the day of , 19

Foreman

NO. 8900691

Glynn

Superior Court

September

Term, 1989

THE STATE
vs.

NOEL EUGENE GRAY aka J.R.

Count 1: Aggravated Child Molestation

Count 2: Child Molestation

Bill BILL

Kristine Hooser Foreman

Blanca J. Thomas Jr. Prosecutor

John W. Davis
District Attorney

Brunswick Judicial Circuit

Received and filed in open court this

6th day of Oct, 1989

Michael E. Johnson
(Clerk of Superior Court)

-GS-02- 1 2 2 2

IN THE SUPERIOR COURT OF GLYNN
STATE OF GEORGIA

COUNTY, GEORGIA

FINAL DIS

VS

CRIMINAL ACTION NO. 8900691
OFFENSE(S) Aggravated Child Molestat

NOEL EUGENE GRAY, JR.

January

TERM.

Deputy Clerk

- ☒ PLEA:
- ☒ NEGOTIATED
 - ☒ GUILTY ON COUNT(S) _____
 - ☐ NOLO CONTENDERE ON COUNT(S) _____
 - ☐ TO LESSER INCLUDED OFFENSE(S) _____
 - ON COUNT(S) _____
- ☐ JURY
- ☒ NON-JURY
- ☐ VERDICT:
- ☐ GUILTY ON COUNT (S) _____
 - ☐ NOT GUILTY ON COUNT(S) _____
 - ☐ GUILTY OF INCLUDED OFFENSE(S) OF _____
 - ON COUNT(S) _____
- ☐ OTHER DISPOSITION
- ☐ NOLLE PROSEQUI ORDER COUNT(S) _____
 - ☐ DEAD DOCKET ORDER ON COUNT(S) _____
- (SEE SEPARATE ORD

☒ DEFENDANT WAS ADVISED OF HIS RIGHT TO HAVE THIS SENTENCE REVIEWED BY THE SUPERIOR COURTS SENTENCE REVIEW PANE

☒ FELONY SENTENCE ☐ MISDEMEANOR SENTENCE

WHEREAS, the above-named defendant has been found guilty of the above-stated offense, WHEREUPON, it is ordered and adjudged by the Court that: The said defe hereby sentenced to confinement for a period of Fifteen (15) years

in the State Penal System or such other institution as the Commissioner of the Georgia Department of Corrections may direct, to be computed as provided by law. HOWE is further ordered by the Court:

- ☐ 1) THAT the above sentence may be served on probation
- ☒ 2) THAT upon service of ten (10) years of the above sentence, the remainder of five (5) years may be on probation PROVIDED that the said defendant complies with the following general and other conditions herein imposed by the Court as a part of this sentence

☒ GENERAL CONDITIONS OF PROBATION

- The defendant, having been granted the privilege of serving all or part of the above-stated sentence on probation, hereby is sentenced to the following general conditions of probation:
- ☒ 1) Do not violate the criminal laws of any governmental unit.
 - ☒ 2) Avoid injurious and vicious habits — especially alcoholic intoxication and narcotics and other dangerous drugs unless prescribed lawfully.
 - ☒ 3) Avoid persons or places of disreputable or harmful character.
 - ☒ 4) Report to the Probation Officer as directed and permit such Officer to visit him (her) at home or elsewhere.
 - ☒ 5) Work faithfully at suitable employment insofar as may be possible.
 - ☒ 6) Do not change his (her) present place of abode, move outside the jurisdiction of the Court, or leave the State for any period of time without prior permission of Probation Supervisor.
 - ☒ 7) Support his (her) legal dependants to the best of his (her) ability.

☒ OTHER CONDITIONS OF PROBATION

IT IS FURTHER ORDERED that the defendant pay a fine in the amount of N/A plus \$50 or 10%, whichever is less pursuant to O.C.G.A. § 15-21-70, and not to exceed \$1,000.00. Probation Fee \$10.00/mo. Court Costs N/A Attorney's Fees N/A

~~xxxxxxx~~ Probation fee shall be paid to the designated probation office in the supervising judicial circuit beginning one (1) month after the defendant's date of release from incarceration and each month thereafter as long as the defendant remains under the supervision of Department of Corrections of the State of Georgia. Defendant shall be required to pay restitution for any counselling expenses incurred by Amanda Reilly in the future. Expenses IT IS THE FURTHER ORDER of the Court, and the defendant is hereby advised that the Court may, at any time, revoke any conditions of this probation and/or discharge defendant from probation. The probationer shall be subject to arrest for violation of any condition of probation herein granted. If such probation is revoked, the Court may on the execution of the sentence which was originally imposed or any portion thereof in the manner provided by law after deducting therefrom the amount of time the defendant has served on probation.

The defendant was represented by the Honorable John Davis Attorney at Law, Glynn County, by (Signature) (Appointmer By the Court January 25 19 90)

So ordered this 25th day of January, 19 90 William R. Killian

Certificate of Service — This is to certify and acknowledge that a true and correct copy of this Final Disposition has been delivered in person and the defendant has been du instructed regarding the conditions as set forth

This 30th day of January, 19 90

Arthur W. Stewart
Probation Officer

William R. Killian
Judge, Glynn Superior Court
Brunswick Judicial Circuit

Duplicate: District Attorney
Triplicate: Probation Office

Filed in Open Court, this



**THE STATE OF SOUTH CAROLINA
OFFICE OF THE SOLICITOR
SECOND JUDICIAL CIRCUIT**

EXHIBIT #3

PLEA AGREEMENT OFFER

DEFENDANT: Noel B Gray JrATTORNEY: Kelley P. Brown.DATE OF OFFER: 10/7/04SOLICITOR: Everett K. ChandlerOFFER EXPIRES IF NOT ACCEPTED BY: October 18, 2004

PLEAD TO:

WARRANT/TICKET:

CHARGE:

RECOMMENDED
SENTENCERESTITUTION
AMOUNT2004-1333 / F-718991CSC w/ Minor 2nd15 years

*

2004-1334 / F-718990" " "15 years

*

2004-1334 / G-720746Grand Larceny10 years

?

*

DISMISS:

WARRANT/TICKET:

CHARGE:

RESTITUTION
AMOUNTTOTAL RESTITUTION: ?

OTHER TERMS/CONDITIONS: Please deliver signed agreement and attached sentence sheets by expiration date.

ACCEPTED/REJECTED BY:

DEFENDANT: _____

DEFENSE COUNSEL: _____

DATE OF SIGNATURE (S): _____

EXHIBIT # 32



THE STATE OF SOUTH CAROLINA
OFFICE OF THE SOLICITOR
SECOND JUDICIAL CIRCUIT

EXHIBIT 4

RULE 5
TO CK
DATE 1/12

PLEA AGREEMENT OFFER

DEFENDANT: NOEL EUGENE GRAY JR.

ATTORNEY: KELLEY P. BROWN

DATE OF OFFER: Tuesday January 11, 2005

SOLICITOR: Everett K. Chandler

OFFER EXPIRES IF NOT ACCEPTED BY: January 21, 2005

PLEAD TO:

WARRANT/TICKET:	CHARGE:	NEGOTIATED SENTENCE	RESTITUTION AMOUNT
1.F-718991	Lewd Act (CSC w/ Minor)	15 yrs susp. to (14ys, 5ys probation)	\$0
2.F-718990	Lewd Act (CSC w/ Minor)	15 yrs	\$0
3.G-720746	Grand Larceny	10 yrs susp. to 5yrs probation	\$3,500

*To run consecutively in the order above

DISMISS:

WARRANT/TICKET:	CHARGE:	RESTITUTION AMOUNT
F-718985	CDV	\$0

TOTAL RESTITUTION: \$3,500

OTHER TERMS/CONDITIONS: Please deliver signed agreement and attached sentence sheets by expiration date; if not accepted by expiration date.

ACCEPTED/REJECTED BY:

DEFENDANT: _____

DEFENSE COUNSEL: _____

DATE OF SIGNATURE(S): _____

33

DEC 21 1996

12-25

Dear Mrs Kelly Brown,

Hello, I'm writing you regarding my I.A.D
130 day Speedy trial agreement. My 130 days has expired and
I am still in the Aiken County Detention Center.
I filed May 5th 2001, it is now Dec, 25 2001.

Please file for a dismissal of my charges due to
the government 130 day I.A.D. Agreement being violated, and
allow me to be returned to Lexington Federal Medical Center
in Lexington, Ky. As soon as possible.

Thank you.

NOEL GRAY

A.C.D.C D 245

04 GS-02-1335

(EX-A-1)

200102041339

STANDARD HALL, 1550004

-GS-02- 1333

12-2

Dear Mr. Early

Hello, my name is Noel Gray.

I'm writing you regarding I filed for a fast and Speedy trial May 5th 2004. I am a federal Inmate from Lexington, Ky. I'm here on the I.A.D. State Writ Agreement.

Sir, I'm 57 days over my 180 days and I never been to court or have I seen my public Defender Kelly Brown. I saw her 1 time in September. That's it. D.S.S. Found my Case with Kristina Brown Non Founded. I filed May 5th 2004 and I'm now Dec. 29th 2004. Sir all I want is to get my Birth Certificates and pictures from this lying woman and return to federal prison where I am currently serving time at.

I Don't wish to file a suit for my I.A.D Agreement being Violated I just want to get back to Lexington, Ky. Please

Your Time and help in this matter would be greatly appreciated.
Your Honor

Respectfully Yours
Noel Gray

2004 Dec 29

133 W. 21. (~~EX 8-2~~)Helen G. ~~EX 8-2~~

2004 Dec 29

1333

34

P.S. I would like to see you in court for my charges.
I am a federal inmate from Lexington, Ky.

29801

SECRET - 70-00-00

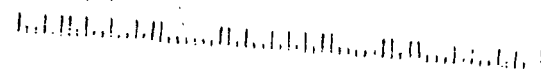


LEGAL MAIL

Mr. William A. Alver,
 Chief Public Defender
 109 Park Ave.
 Albany, N.Y. 12242

(~~SECRET~~)
 (SECRET)

29801-4302



JAN 11 2004

C1 11

Dear Mr. Alves,

Hello Sir, my name is Noel Gray.

I'm A Federal Prisoner from Lexington Federal Medical Center in Lexington Kentucky. I am here on a 180 day fast and speedy trial. I filed Co. this May 5th 2004. I was picked up September 1st 2004 by the Arkan Co. Bloodhound officers. I've seen my lawyer Mrs. Kelly Brown in early October. Only once she stated to me why did you file for this Speedy trial I dont have time to study for a trial in this short period of time. So I written out by hand every thing that occurred from the time I met Linda Brown till the day I left. Every thing she done for me "everything". So In November D.S.S. came to the jail and Investigated the c.s.c. miner And it was unfounded. I called Kelly Brown yesterday and she stated that she filed for a continuance on my case without my permission That killed my 180 day fast a Speedy trial which ended Nov 1st 2004. Sir who is she working for. She also stated that ~~the unfounded D.S.S. paper work was possibly checked in the wrong box. I wanted my 180 day trial because I am not guilty of the offense~~ ~~the unfounded D.S.S. paper work was possibly checked in the wrong box. I wanted my 180 day trial because I am not guilty of the offense~~ ~~the unfounded D.S.S. paper work was possibly checked in the wrong box. I wanted my 180 day trial because I am not guilty of the offense~~

GS-02-1333

04

Sir, I wanted my trial and it was violated
"expired". Please Sir, my C.O.C.'s were unfounded
and I want to have this mess dismissed.
And I want that extension lifted, please.
I already contacted my Federal Judge and
my prison in which I am incarcerated in.
Please help me out Sir. Next letter is going
to the bar. Your time and help in this matter
would be greatly appreciated. Thank you.

Walter E. H. Jr.
Noel Gray

D.C.D.C. D-245
435 W. Rd.
Aiken, S.C.

09501

04 -GS-02

~~(Scribbled out text)~~

Defender Corporation of Aiken County
410 Barnwell Avenue NW
Post Office Drawer 2247
Aiken, South Carolina 29802

Wallis A. Alves, Chief Public Defender
Kelley Perkins Brown, Deputy Public Defender
David M. Mauldin, Assistant Public Defender

H. Lane Danielson, Assistant Public Defender
Billie B. Goodman, Assistant Public Defender

January 7, 2005

Noel Gray, Inmate
Aiken County Detention Center
435 Wire Road
Aiken, SC 29801

re: pending criminal charges

Dear Mr. Gray:

I have received your letter and spoken with Attorney Kelley Brown about your case. It is my understanding that your case is scheduled for trial at the end of this month. Attorney Brown also informed me that she has been investigating your case and is preparing your defense for trial.

I would suggest that you talk with your attorney regarding the other issues you discussed in the letter and work with her to prepare a defense for your trial.

Wishing you well, I am

Very truly yours,


Wallis Alves

/wa

GS-02-1333

04

(S. B. G. + H. G.)



State of South Carolina
The Circuit Court of the Second Judicial Circuit

DOYET A. EARLY, III
JUDGE

2959 MAIN HIGHWAY
POST OFFICE BOX 90
BAMBERG, SOUTH CAROLINA 29003

January 10, 2005

Noel Gray
Aiken County Detention Center
435 Wire Road
Aiken, South Carolina 29801

Dear Mr. Gray:

I am Judge Early's law clerk. Judge Early received your letter dated December 29, 2004. Judges are not allowed to give legal advice in any way. As a Judge, he must remain completely neutral. Generally, Judges are allowed to speak to people about a case only in court, when all sides have an opportunity to participate. Consequently, Judge Early is not allowed to respond specifically to anything you discussed in your letter. You or your attorney may file the proper motion to have this matter brought before the court with all sides present. I do not know what the outcome of such a hearing would be.

By copy of this letter and your letter to your attorney, I am informing her of your concerns.

Sincerely,

Law Clerk to the Honorable D.A. Early, III

cc: Kelly Brown, Esquire

10

JAN 11 2005

31

Dear Mrs. Alves,

Hello. my name is Noel Gray.

I'm writing you concerning my 180 day fast & speech trial being violated. I filed for a public Defender February 19, 2004 thru Bill Hartman. I found out that Kelly Brown was my lawyer March 2nd, 2004. I filed for my 180 day fast & speech trial May 5th 2004. They came and got me September 1st, 2004. I saw Mrs. Brown some time in October. November 13th was my 180 day dead line. And she went and filed an extension on my 180 days, which makes it until some time in November. Mrs. Alves, this was done out of my knowledge and with out my approval. I want this extension uplifted. And I want to file for an immediate dismissal of my charges. The State Bar already has been contacted on this matter, as well as the Judge. Your time and help on this matter would be greatly appreciated.

Best Blessings

Respectfully Yours

Noel Gray

Noel Gray

My Commission did get a fast & speech trial was violated
 on the 13th of November. The State Bar has been contacted
 on this matter. Your time and help on this matter would be greatly appreciated.

04 GS-02 1332

279

RECEIVED

OCT 17 2011

BRCI
MAILROOM

Noel Gray #307590
Murray #212
Broad River Corr. Inst.
4460 Broad River Rd.
Columbia, S.C. 29210

October 17, 2011

South Carolina Court Administration
South Carolina Supreme Court
1015 Sumter St. Suite 200
Columbia, S.C. 29201

~~EXHIBIT #25~~

EXHIBIT #25

GS-02

04

Dear Court Services Section,

My reason for correspondence to this Honorable Office is as follows: August 29, 2011, I sent through U.S. Mail a Federal Freedom of Information Act Request pursuant to 5 U.S.C. 552 and the Privacy Act (PA) 5 U.S.C. 552 (a) S.C. Code of Laws Ann. 33 30-4-10 through 33 30 4-165 (1991 and Supp. 2005). (See Attachments). All Subpoenas were not sent as requested, Kelly Perkins Brown Esq. who represented me in a Jury trial in which I received a Life Sentence, Refused to send me her Court (IN court) trial Experience in which I requested a Official Peniont on all cases and Docket Numbers of all Sex related cases she has brought to bear from Law school, University of South Carolina 1997 to February 20, 2005, Case names of Defendant's the Prosecutor's name, all Jury Trials, Pleas, Guilty or Not Guilty etc. etc. Attorney George Bush information; my D.N.A files from S.C.E.D., Investigation and Contact Info, in regards to a prior conviction, D.N.A Results of the alleged victim October, 2007

Court Experience.

This information is sought for litigational purpose only, and she is violating my 6th and 14th Amendments of the United States Constitution, to Due Process and restricting my ability to information that is Public Information and hindering my ability to adequately develop a proper legal argument to defend my cause and life. I am in Federal Habeas Corpus at this time and this information is vital and needed urgently.

I've written to the Clerk of Court in Aiken. No help. Written to S.C. Bar. no help, Written to her Boss no response and to her. Refused. I would like to request this Honorable Office to help me to obtain this desperately needed information. I am indigent and Pro-St.

I thank this Honorable Office for your time and help in this matter.

Respectfully Requested
Noel Gray #307550
Noel Gray #307550

GS-02-1333
104

Sworn and Subscribed before me

This 17th day of October, 2011

Susan H. Frye

Notary Public for South Carolina. My Commission Expires March 5, 2012

My Commission Expires March 5, 2012

RECEIVED

OCT 18 2011

BRCI
MAILROOM

EXHIBIT # 8

Noel Gray #307590
murray #212
Broad River Corr. Inst.
4460 Broad River Rd.
Columbia, S.C. 29210

October 18, 2011

Ms. Wallis Alves
Chief Public Defender for Aiken
410 Barnwell Ave. N.W.
P.O. Drawer 2247
Aiken, S.C. 29802

~~CONFIDENTIAL~~

Dear Ms. Alves,

EXHIBIT # 24

This lawful request of information is being sought pursuant to the Federal and State Freedom of Information Act / F.S.F.O.I.A. 5 U.S.C. § 552 [and the Privacy Act (P.A.), 5 U.S.C. 552 (a)]. S.C. Code of Laws Ann. - § 30-4-10 through § 30-4-165 (1991 - Supp. 2005).

Also this requested information is solely for litigational purposes, only, and shall not be made commercial or public in use. Also the above cited F.S.F.O.I.A.'s grant for a waiver of any/all fees related to research, copy, return postage, and review to determine if any exemption within cited F.S.F.O.I.A. apply.

Please note that by these grants as a indigent litigant affiant does not expect to be charged fees for said services.

GS-02-1333

Cited F.S.F.O.I.A.'s also allows that All requested Information must be provided to affiant.

REQUESTED INFORMATION AS FOLLOWS:

1. A complete Record of all cases brought to Bar by this office pursuant to Guilty, Not Guilty, Plea Agreements, Bench Trials and Jury Trials from January 1998 to March 2005, name of Counsel and Solicitor who represented the Defendant's and State to the above cases and dates of hearings.

Affiant requests that a timely (F.S.F.O.I.A. grants 20 days "working days" in good faith) and a reply to this request is required / and or sought. In good faith. Also is enclosed is a self addressed envelope.

Moel Mary #307590
All rights reserved
CC/File / s.c. Court Admin.

Sworn and Subscribed before me

this 18th day of October, 2011

Susan H. Frye

Notary Public for South Carolina

My Commission Expires
March 5, 2018

My Commission Expires: _____

04 GS-02-1333

Noel Gray #307590
 Murray #212
 Broad River Corr. Inst.
 4460 Broad River Rd.
 Columbia, S.C. 29210

CIA 2004-GS-02-1333 /1334

DECLARATION OF SERVICE
 BY U.S. MAIL...

Ms. Wallis Alves,
 Chief Public Defender for Aiken,
 410 Barnwell Ave. N.W.
 P.O. Drawer 2247
 Aiken, S.C. 29802.

04-GS-02-1333

I Noel Gray #307590 the undersigned, declares:

I am a party of this action acting in "Good faith" on October 18, 2011. I the petitioner/Affiant in Pro-Per, I served the within Notice of the Federal and State Freedom of Information Act (F.S.F.O.I.A's) 5 U.S.C. § 552 [and the Privacy Act (PA)] 5 U.S.C. § 552(a) and South Carolina Code of Laws §§ 30-4-10 through §§ 30-4-165 (1991 - Supp. 2005). Declaration of Noel Gray #307590 In good faith to the following interested parties by U.S. Mail with postage pre-paid and a true copy sent thereof to.

Ms. Wallis Alves Aiken Co. Chief Public Defender
 410 Barnwell Ave. N.W.
 P.O. Drawer 2247
 Aiken, S.C. 29802

2. South Carolina Court Administration
S.C. Supreme Court
1015 Sumter St. Suite 200
Columbia, S.C. 29201

In Kind Regards I Remain
Respectfully Submitted
Neil Young #307590
Per - Per

October 18, 2011
Columbia, S.C.

04 GS-02-1333

October 31, 2011

Under the penalty of perjury, I hereby submit this Statement under Oath and also the Statement is true and correct of its entire contents. I Jacky Blackwood #317295 knew Mr. Mike Williams at 1078 Madison Ave., New Ellenton, S. C. for 20 twenty years as well as his wife Becky Williams. ever since I was a child. Mr. Williams is a Professional down on the side, but he acts extremely weird, and I would not trust him with my children or niece. By his self.

He is also on Social Security disability and he works under the table, because he did a plumbing job for me and the work was unprofessional and not correct. I had leaks every were. I also know that Mike Williams was cheating on his wife and are now Divorced. I am making this Statement. I do not know Noel Gray on the Streets and we are not in any way Kin, I have been locked up since 2006. Mike is a Con artist and a liar. I also know he sells his pain pills for money. I have seen this for my self. He is not to be trusted. and he will use someone if he had the chance.

Respectfully Submitted
X Jacky Blackwood
Jacky Blackwood #317295

102 King Ave.
New Ellenton, S. C.
29801

C/M
11/10/20112004-GS-02-01333(F718991)
2004-GS-02-01334(F718990)
November 7, 2011

EXHIBIT# N 66

Dear Honorable Clerk,

I regard to my case 2004-GS-02-1333/1334
State v Noel Gray #307540 I have a Constitutional question
that needs to be addressed:

1. In regard to the defendant Noel Gray, was States
witness Lin M. Brown, D.O.B. [REDACTED], 1965
[REDACTED] 29802
charged or indicted in connection with the above referenced
Case?

If so when?

FILED November 10 2011

Leigh Hladard
C.C.C.P. & G.S.
Charles E. Westfall / CSM
Notary Public

Respectfully Requested
Noel Gray #307540
Noel Gray #307540
Murray #212 B.R.C.I
4460 Broad River Rd.
Columbia, S.C.
29210

All Rights Reserved
CC/File / S.C. Courts Admin.

sworn and Subscribed before me

This 7th day of October, 2011x Susan H. Frye

Notary Public for South Carolina

My Commission Expires: March 5, 2018

11/10/2011

Mr. Gray,

You do not do
Criminal Record checks.
You will need to
contact a local attorney
or private investigator for
that information.
Thank you
Charles E. Westfall
to Clerk

04 -GS-02-1333

**AIKEN COUNTY SHERIFF'S OFFICE**

Michael E. Hunt, Sheriff

EXHIBIT #12

November 22, 2011

Noel Gray # 307590
BRCI
Columbia, SC

I have received your letter requesting information on 2004-GS-02-1333, 1334.

After locating the warrant numbers and the case number for these charges, I am finding no additional charges on any additional persons for this case, as of this writing.

I have forwarded a copy of your letter to the Investigator on this case.

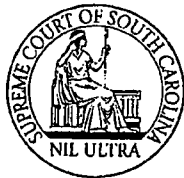
If you have any further questions, let us know.

Thank you,

*Vickie P. Snyder*Vickie P. Snyder
Aiken County Sheriff's Office
Records Manager, Records Section
420 Hampton Ave., NE
Aiken, SC 29801

GS-02-1333

04



South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

January 5, 2012

DeGrant Gibbons
Public Defender, 2nd Judicial Circuit
P.O. Drawer 2247
Aiken, SC 29802

RE: Noel Gray

Dear Mr. Gibbons:

Enclosed is a copy of a letter this office received from the above-referenced person. He is attempting to have documents sent to him from your office. It would be appreciated if you would review this matter to assist him.

By copy of this letter, this office is advising the above-referenced person that, when requesting documents from the Clerk of Court, the Clerk can require a deposit in advance for the copying and research fees involved with document requests, as provided by S.C. Code Ann. §30-4-30(b). Also, when requesting copies of documents, you will need to include a self-addressed, stamped envelope.

Sincerely,
Court Services Section

cc: Noel Gray #307590
Broad River Correctional Institution
Murray #212
4460 Broad River Road
Columbia, SC 29210

79

Defender Corporation of Aiken County
 410 Barnwell Avenue NW
 Post Office Drawer 2247
 Aiken, South Carolina 29802

Wallis A. Alves, Chief Public Defender
 Kelley Perkins Brown, Deputy Public Defender
 David M. Mauldin, Assistant Public Defender

H. Lane Danielson, Assistant Public Defe
 Billie B. Goodman, Assistant Public I

January 12, 2005

Everett Chandler
 Assistant Solicitor
 P.O. Drawer 3368
 Aiken, SC 29802

RE: THE STATE OF SOUTH CAROLINA VS. NOEL GRAY

Dear Everett:

Pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure, please forward the Chain of Custody on the Criminal Sexual Conduct Kit for *Minor* along with a copy of the Miranda Rights Waivers for the defendant listed above.

Your assistance in this matter will greatly be appreciated.

Sincerely,

Kelley Perkins Brown
 Kelley Perkins Brown
 Deputy Public Defender

KPB/lw

CS-02-1333

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

VS.)

REQUEST AND MOTION
FOR PRODUCTION

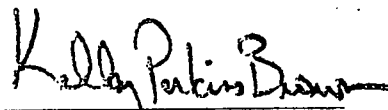
Noel Gray)
DEFENDANT)

Warrant #: F-718990, 991, G-720746

TO: BARBARA MORGAN, SOLICITOR, SECOND JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that the Defendant above named, Noel Gray, by and through his/her undersigned attorney, hereby requests and moves that the Solicitor of the Second Judicial Circuit produce and make available to the Defendant or his/her counsel any and all documents, evidence and other information which is subject to disclosure, pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure. This Defendant further requests that the Solicitor make available any and all evidence favorable to him/her which is subject to disclosure, pursuant to Brady v. Maryland, 373 U.S. 83 (1963), and subsequent cases, to include any and all information and evidence which is discoverable pursuant to Rule 5 or Brady, supra, and which is in the hands of agents for the prosecution, including police agencies.

Aiken County Public Defender



Kelley Perkins Brown
Attorney for Defendant

Aiken, South Carolina
February 25, 2004

A TRUE AND CORRECT COPY

Liz Garland
By *Mark L. Hines* Date *Feb* 200*4*
Deputy Clerk

04 -GS-02- 1335

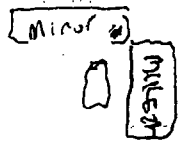
(ORIGINAL TRIAL NOTES
TO Bennie Williams Investigator)

I moved in 6 Days after I met Linda,
Linda moved in the same day Mike got
me from Augusta.

I left Nov. 12th after the C.S.C. Dropped
and Rifle taken + Probation violation.

Officer Dlevins next existed
Heub RAY TIMRANDALE

Her mom called me teddy Bear
Minor POOTH BETAR

Minor #  2' Apart

First INDICATION of HAVING BEEN Ejaculated inside

04 GS-02 1333

TIM RANDALL, HENRY RAY, INVESTIGATED THE
C.S.C. THAT WAS DROPPED AND THEN WENT TO
MIKE WILLIAMS'S HOUSE, THEY CAME BACK INVESTIGATING
ME TO A CONNECTION OF A THEFT.

LINDA TOLD HENRY RAY THAT NOEL HAS NEVER
TOUCHED MY DAUGHTER, SHE TELLS ME EVERYTHING.
HE WOULD NEVER DO ANYTHING TO HURT ME OR MY
DAUGHTER. GUIDANCE COUNSELOR WAS A MAN
GREY HAIR WITH BEARD.

HE NEVER WAS AT THE HOUSE SEPT. 12TH.
I DON'T KNOW WHO THIS DUDE IS.

File for Brady Rule 5
Court Transcripts

04 -GS-02-1322

October 5, 2012

Thank you for your letter dated September 24, 2012.
To answer your question first I am sorry for my lack of procedural and motion formatting. As a layman of the law these issues are too complexed for my ability. I see why you all keep BC's in your possession. Law is a headache I take my hat off to ya'll. 😊 Packet 2 is Exhibits of Trial Transcripts and PCR Transcripts to show cause by material facts. Packets 3-4 is Exhibits to show cause by material facts that Trial Counsel never investigated or did any research regarding this case in chief.

Also, 6-7 was also material facts to show cause by material facts that trial counsel was against her client and also Evidence of Trial Counsel's Unprofessional Misconduct by withholding Discovery back on her own client "a Brady Violation and the 2011-CP 02-2776 was where I mistakenly misplaced the newly Discovered Evidence into the wrong Court. Which that Improper PCR Application contained EXHIBITS of the Newly Discovered Evidence pursuant to Rule 29(b) of the S.C. R. Crim. P.

I have 1 last copy of packets 6-7 I'm sending you.
These EXHIBITS will show Trial Counsel Ineffectiveness and will
clearly establish prejudice towards her own client.
H.

Mr. Gray,
Received your packet +
filing it with the rest that you
have sent. Thank you.
W. H. H.

Respectfully Submitted
Noel Gray #302530

Copies:
Judge Early
Solicitor
P.D.
Mr. Gray

2004-6502-01333
201334
FILED October 10 2003
Gay Good
V.C.C.P.C.S.
Cheryl E. Ventral/OW
JANICE CHASE

Aiken County
Clerk of Court
PO Box 583
Aiken, SC 29802

September 24, 2012

Noel Gray #307590
Murray #212-B
Broad River Correctional Inst
4460 Broad River Road
Columbia, SC 29211

Mr. Gray,

I received your Enclosure Letter, Motion for New Trial & Motion for Appt. of Counsel. I received 5 separate packets from you, but, on the outside of your packets you indicated that there should be 7 total.

Packet 1: Contains your Enclosure Letter, Motion for New Trial & Motion for Appt. of Counsel.

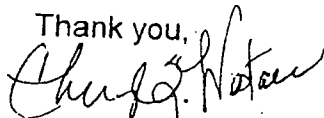
Packet 2: Contains copy of a Trial Transcript

Packets 3 & 4: Contains what looks like copies of all the correspondence you have acquired since your trial.

Packet 5: Contains a copy of everything packet 1 has and a self-addressed envelope to send those copies back to you certified.

I am sending you certified copies of what you have filed with our office. I would appreciate you responding to me as to the number of packets I was supposed to receive. Also, would appreciate you responding and letting me know what your intent was for Packets 2, 3 & 4.

Thank you,



Cheryl S. Westall
Chief Deputy Clerk
Criminal Division

2004-6502-01333 + 01334

~~EXHIBIT # 16-1~~ 59

October 9, 2006

South Carolina Supreme Court

Noel Gray # 307590

Office of Disciplinary Counsel

Broad River Corr. Inst.

P.O. Box 12159 C

4460 Broad River Rd.

Columbia, SC. 29211

Columbia, SC,

29210

04 -GS-02- 1333

NA -GS-02 1334

To whom it may concern.

My name is Noel Gray # 307590, and I am currently housed in the Department of Corrections.

My reasons for writing this office, is due to not being appointed or represented by an Attorney, in the face of Appeal that I am at.

Let me clarify my stance. I was appointed Esg. ^{N.C.} ~~Eleanore~~ Eleanore Duffy Cleary after my trial, but on my behalf she filed a Anders Brief stating I had no merits for Appellate Review. I strongly disagree.

Also, she ordered and dismissed her self from this case.

I was informed that I had a Time period to submit a Pro. Se Brief to the Courts. In which was done.

My dilemma now is I have no Attorney to represent me and the Issues I have raised to the Court of Appeals. This has deprived me of my (~~EXHIBIT~~)

~~EXHIBIT #~~

~~EXHIBIT #~~

EXHIBIT #

~~EXHIBIT # 16-2~~

due Process of law to the courts for my Attorney
to abandon me. As well as Ineffective Assistance
of Counsel. The Federal Inmate Advocates, Located
in Fort Mill, SC. thru U.S. Mail told me I was
Some Very Serious 6th and 14th Amendment Violations
of Due Process. Federal Law as well as Federal
Contracts were violated. This is documented, in
which I do have.

Is there any way you can aid me in this matter?
or has my Pro-Se Brief been denied? I have no legal
Assistance to Aid or direct me in what's needed to
be done in the matter of law. My Pro-Se Brief was
done based on official Documentation in which I
do have. Thank you kindly for your time in this
matter and waiting on your response.

Respectfully Submitted
Joel Dery - 307590

Sworn and Subscribed Before me

this 9th day of October

X Elizabeth W. [Signature], 2006

Notary Public for South Carolina

My Commission Expires: July 29, 2007

(~~EXHIBIT # 16-2~~)

(EX. R-2)

~~EXHIBIT # 16-2~~

04 GS-02-1333
04 GS-02-1334



51

The Supreme Court of South Carolina

OFFICE OF THE DISCIPLINARY COUNSEL

HENRY B. RICHARDSON, JR.
DISCIPLINARY COUNSEL

SUSAN M. JOHNSTON
DEPUTY DISCIPLINARY COUNSEL

POST OFFICE BOX 12159
COLUMBIA, SOUTH CAROLINA 29211

October 27, 2005

PERSONAL AND CONFIDENTIAL

Mr. Noel E. Gray, Jr. #307590
4460 Broad River Road
Columbia, SC 29210

RE: Lawyer: Eleanor D. Cleary
Case Number: 05-DE-L-1221

Dear Mr. Gray:

This is to acknowledge receipt of your complaint against the above named lawyer. An investigation will be conducted by this office into the matters you have reported in your complaint.

In this letter, we seek to address in advance issues and questions which often arise and to give you some understanding as to what this office and the Commission on Lawyer Conduct (the Commission) can do, and, more importantly, what they cannot do in connection with your complaint. It is important that you understand that neither this office nor the Commission can take any action to protect or promote your personal interest. So, you should not delay in seeking advice or taking action needed to protect your own personal interest.

The authority of this office and the jurisdiction of the Commission on Lawyer Conduct are limited to issues of whether a lawyer has committed misconduct or is incapacitated within the guidelines set out in the Rules for Lawyer Disciplinary Enforcement Rule 413, SCACR, promulgated by the Supreme Court of South Carolina. Where such misconduct is found, sanctions may be imposed upon a lawyer ranging from a confidential letter of caution all the way up to disbarment. If our investigation does not reveal either evidence of lawyer misconduct or incapacity as described in the applicable Supreme Court rules or reason to believe further investigation would reveal such evidence, these rules require the complaint to then be dismissed.

(44-95-1)

~~CONFIDENTIAL~~

Blind Amendments

04 GS-02-1333

Mr. Gray
October 27, 2005
Page Two

Often, persons filing complaints with the Commission or our office seek advice as to what to do about their case or request help in getting a lawyer to take certain action. However, under the applicable rules, the efforts of this office and those of the Commission must be directed toward promotion of institutional values for the benefit of the public as a whole, and not toward obtaining relief for or rendering assistance to any individual complainant.

Neither this office nor the Commission has authority to give advice or to seek to obtain any relief on behalf of an individual complainant. Neither this office nor the Commission have any authority to determine whether the outcome of a case was fair; nor do we have the authority to intervene in any matter presently pending before any court or other tribunal or to seek to change in any way a prior decision of any court or other tribunal. Both this office and the Commission are without authority to seek to make a lawyer take any particular action on your behalf.

We take this opportunity to advise you of the limited role of this office and that of the Commission so that, if you have sought assistance or advice from either this office or the Commission, you will now be aware that such assistance or advice cannot be provided by us and that you should promptly seek any such assistance or advice that you might need from legal counsel or such other source as you might select.

You will be notified as to the final disposition of your complaint in this matter. However, you should be alerted that it is often many months after receipt of a complaint before a final disposition of a complaint can be made and the complainant notified as to the nature of such final disposition. Please refer to the case number set out above in any future correspondence or inquiries to this office concerning this matter.

Very truly yours,

Barbara W. Hinson
Barbara W. Hinson
Administrative Assistant

BWH/clg

(24-13)

~~(24-523)~~

~~ENCLOSURE 11-11-11~~

1334
GS-02

1333
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RECEIVED

JAN 31 2008

The South Carolina Court of Appeals

ATTORNEY GENERAL
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CLERKV. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1890
FAX (803) 734-1839
WWW.SCCOURTS.ORG

January 30, 2008

REMITTITUR

The Honorable Liz Godard
109 Park Ave
PO Box 583
Aiken, SC 29802-0583

COPY FILED February 11, 2008

Liz Godard
C.C.P. & G. & Clerk
Shannon W. Rosenkrantz
Deputy Clerk

Re: The State v. Gray, Noel
2004-GS-02-01333 2004-GS-02-01334

Dear Mrs. Godard:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,

Renee S. Johnson
Renee S. Johnson
Administrative Specialist

KAR
KAR:ej

cc: Appellate Defender Eleanor Duffy Cleary
Noel Gray #307590

Assistant Deputy Attorney General Salley W. Elliott
Barbara R. Morgan, Esquire

opies: Sheriff's Department
Solicitors Office
Kelley Brown, PD Office

04 GS-02-1333-04 GS-02-1334

(EXHIBIT # 3)

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

NOEL GRAY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

SUPPLEMENTAL
APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

P. O. Box 11549
Columbia, S. C. 29211

ATTORNEYS FOR RESPONDENT

EX.

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-GS-02-

04

-GS-02- 1333

04

NOEL Eugene Gray aka J.R.

waives copy of indictment and list of witnesses, also waives being formally arraigned and pleads not guilty.

(District Attorney)

Noel E. Gray

(Defendant)

John W. Davis

(Defendant's Attorney)

(Date) 11/16/89

The Defendant

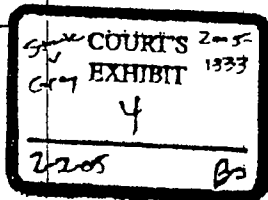
waives copy of indictment and list of witnesses, also waives being formally arraigned and pleads not guilty.

(District Attorney)

(Defendant)

(Defendant's Attorney)

(Date)



GEORGIA, GLYNN COUNTY

The defendant, Noel Eugene Gray aka "J.R." hereby changes his plea from one of not guilty to one of guilty to both counts.

This the 31st day of Jan., 1990

John W. Davis

Noel E. Gray Jr

John W. Davis

John W. Davis

John W. Davis

John W. Davis

John W. Davis

John W. Davis

John W. Davis

John W. Davis

John W. Davis

John W. Davis

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John W. Davis

John W. Davis

John W. Davis

John W. Davis

John W. Davis

GEORGIA, GLYNN COUNTY

I do certify that the within and foregoing is a true, complete and correct copy of the original in said case, as appears by the original on file and of record in the Office of the Clerk of Glynn Superior Court, Brunswick, Georgia.

Witness my hand and the seal of said court this the 7th day of January, 2005

Suzanne T. [Signature]

Clerk of S. Court

NO. 8900691

Glynn.

Superior Court

September

Term, 1989

THE STATE

VS.

NOEL EUGENE GRAY aka J.R.

Count 1: Aggravated Child Molestation

Count 2: Child Molestation

BILL

Foreman

Prosecutor

District Attorney

Brunswick Judicial Circuit

Received and filed in open court this

6th day of Oct., 1989

Michael Elton

(Clerk of Superior Court)

Foreman

We, the Jury, find the Defendant

This the ___ day of ___, 19__

GEORGIA, GLYNN COUNTY.

IN THE SUPERIOR COURT OF SAID COUNTY

The Grand Jurors selected, chosen and sworn for the County of Glynn to-wit:

1 <u>James M. Williams</u>	FOREMAN.
2 <u>James C. Williams</u>	13 <u>Shirley Goodhead</u>
3 <u>Thomas B. Williams Jr.</u>	14 <u>Conrad E. Miller</u>
4 <u>Garet Johnson</u>	15 <u>Floyd Gibson</u>
5 <u>Cindy Smith</u>	16 <u>Billy Spivey</u>
6 <u>Mildred Small</u>	17 <u>James E. Grant</u>
7 <u>Roland Mason</u>	18 <u>Jackson Mathis</u>
8 <u>Rufus Johnson</u>	19 <u>Abraham J. Wilcox</u>
9 <u>Charles E. Cain Jr.</u>	20 <u>Ernest Clement</u>
10 <u>James W. Sapp Jr.</u>	21 <u>Wayne Asbell</u>
11 <u>Steve Jackson</u>	22 <u>David Lee</u>
12	23

In the name and behalf of the citizens of Georgia, charge and accuse

Noel Eugene Gray, aka J.R.

with the offense of Aggravated Child Molestation

for that the said Noel Eugene Gray aka J.R.

on or before the 28th day of March, in the year of our Lord Nineteen Hundred and Eighty

in the County aforesaid, did then and there, unlawfully, perform a sexual act, to-wit: sodomy, an immoral and indecent act involving the mouth of the accused and the vagina of [REDACTED] a child under the age of [REDACTED] years, with the intent to satisfy the sexual desires of the accused, all of said act being contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT TWO

AND the Grand Jurors aforesaid, on their oaths aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse Noel Eugene Gray, aka J.R. with the offense of Child Molestation, for that the said accused in the County of Glynn, State of Georgia, on or before the 28th day of March, 1989, did then and there unlawfully, do an immoral and indecent act to-wit: rubbed his penis on the vagina of Amanda Reilly, a child under the age of fourteen (14) years, with the intent to satisfy the sexual desires of the accused, all of said act being

contrary to the laws of said State, the good order, peace and dignity thereof.

Glynn Superior Court

September Term, 19 89

Kristine Houser Prosecutor
Helen J. Porter Jr. District Attorney

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04 GS-02-1333

GA. CODE ANN.

STATEMENT OF ISSUE ON APPEAL

Whether the trial judge erred by sentencing appellant to life without possibility of parole where his prior conviction from Georgia for aggravated child molestation was not for an offense that would be classified as a most serious offense in South Carolina?

04 -GS-02- 1333
04 -GS-02- 1334

STATEMENT OF THE CASE

Appellant Noel E. Gray was indicted by the Aiken County grand jury for two counts of second-degree criminal sexual conduct (CSC) with a minor. ROA p. 271. He proceeded to trial before the Honorable Jackson V. Gregory and a jury on January 31 through February 2, 2005. The jury found appellant guilty on both counts. Appellant had a prior conviction for aggravated child molestation in Georgia. ROA p. 254, lines 7-17. Pursuant to Section 17-25-45 of the South Carolina Code of Laws, Judge Gregory sentenced appellant to life without parole. ROA p. 267.

This appeal follows.

04 GS-02-1333

1771

ARGUMENT

The trial judge erred by sentencing appellant to life without possibility of parole where his prior conviction from Georgia for aggravated child molestation was not for an offense that would be classified as a most serious offense in South Carolina.

The state served notice on appellant that it would use his prior Georgia conviction for aggravated child molestation to seek a life sentence pursuant to S.C.Code Ann. § 17-25-45 (Supp. 2005). Under section 17-25-45(C)(1), appellant's current second-degree CSC with a minor charge constitutes a "most serious" offense. After appellant was found guilty, the solicitor told the judge that based on the elements of "aggravated child molestation," it would be classified as "criminal sexual conduct" and a "most serious offense." ROA p. 254, lines 13-17. The documents from Georgia were entered as court's exhibits. ROA p. 265. Accordingly, the judge then sentenced appellant to life without parole.

Under Section 17-25-45(A)(2), a prior conviction from another state may be used to trigger the recidivist statute if the conviction is for "an offense that would be classified as a most serious offense" under section 17-25-45 (Supp. 2005). The prior conviction must contain all the elements of a "most serious" offense. State v. Lindsey, 355 S.C. 15, 18-19, 583 S.E.2d 740,741 (2003).

In Georgia, a person:

[c]ommits the offense of child molestation when he or she does any immoral or indecent act to or in the presence of or with any child under the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child or the person.

Ga. Code Ann. § 16-6-4 (a) (Supp. 2005)

'04 -GS-02- 1334

'04 -GS-02- 1333

Aggravated child molestation occurs, "when such person commits an offense of child molestation which act physically injures the child or involves an act of sodomy." Ga. Code Ann. § 16-6-4 (c) (Supp. 2005).

The Georgia indictment against appellant alleged that he "unlawfully perform[ed] a sexual act, to wit: sodomy (sic), an immoral and indecent act involving the mouth of the accused and the vagina of [minor victim]." ROA p. 265.

In Georgia, sodomy occurs when a person "performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another." Ga. Code Ann. § 16-6-2(a) (Supp. 2005). This act does not require any "skin to skin contact" and a person may be found guilty of this offense even if the contact occurs with clothing on both parties. Brownlow v. State, 544 S.E.2d 472, 476 (Ga. App. 2001); Holland v. State, 434 S.E.2d 808 (Ga. App. 1993).

In contrast, a person is guilty of CSC with a minor if he engages in a "sexual battery" with a minor. S.C. Code Ann. 16-3-555 (Supp. 2005). "Sexual battery" means "sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes." S.C. Code Ann. § 16-3-651(h). In South Carolina, the "act of cunnilingus ...requires the male tongue to reach the female vagina." State v. Morgan, 352 S.C. 359, 369, 574 S.E.2d 203, 208 (Ct. App. 2002).

In appellant's indictment there is no allegation that his tongue reached the victim's vagina. Contact with his mouth through clothing constitutes aggravated child molestation in Georgia but would not constitute criminal sexual conduct in South Carolina. Therefore,

)

appellant's prior conviction is not necessarily for a crime that would be "classified as a most serious offense" as required by Section 17-25-45(A)(2).

Therefore, he should not have been sentenced to life without parole under the recidivist statute.

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04 GS-02-1333

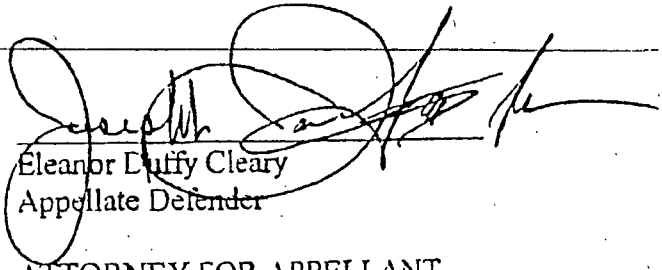
04 GS-02-1334

)

CONCLUSION

Based on the foregoing, appellant's case should be remanded for resentencing.

Respectfully submitted,



Eleanor Duffy Cleary
Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of September, 2006.

04 GS-02-1333

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Jackson V. Gregory, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NOEL GRAY,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

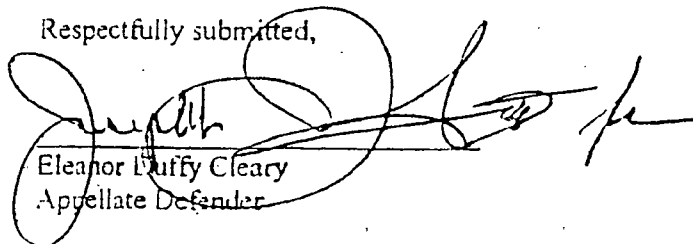
04 GS-02-1333

Counsel for Noel Gray states:

1. She is Assistant Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Jackson V. Gregory, which was held on 2-3-05, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Noel Gray.

Respectfully submitted,



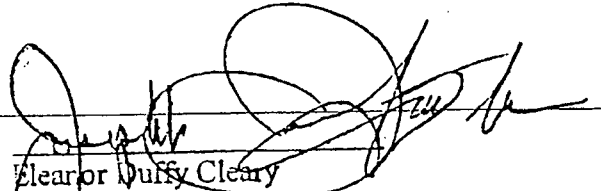
Eleanor Duffy Cleary
Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of September, 2006.

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

September 21, 2006



Eleanor Duffy Cleary
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, SC 29211-1589
803) 734-1343
Attorney for Appellant

04 GS-02-1333

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Jackson V. Gregory, Circuit Court Judge

THE STATE,

RESPONDENT,

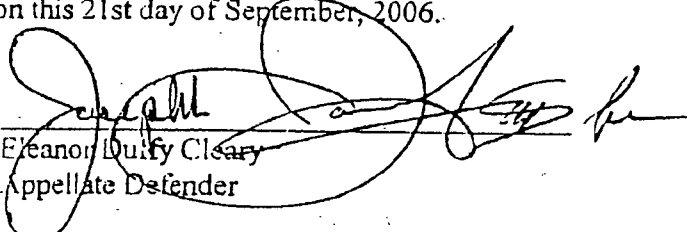
V.

NOEL GRAY,

APPELLANT

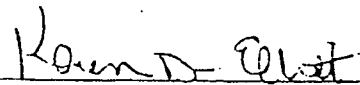
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, this 21st day of September, 2006. A copy of the brief and record on appeal have also been served on Noel Gray, #307590 at Broad River Correctional Institution this 21st day of September, 2006.


Eleanor Duffly Cleary
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 21st day of September, 2006.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: March 13, 2007.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
 1330 Lady Street, Suite 4101
 Post Office Box 11589
 Columbia, South Carolina 29211-1589
 Telephone: (803) 734-1343
 Facsimile: (803) 734-1397

Joseph L. Savitz, III, Chief Attorney
 Wanda H. Carter, Deputy Chief Attorney

September 21, 2006

Salley W. Elliott, Esquire
 Assistant Deputy Attorney General
 Office of the Attorney General
 PO Box 11549
 Columbia, SC 29211

Re: The State v. Noel Gray

Dear Salley:

Enclosed are two copies of the Final Anders Brief of Appellant in the above entitled case, which I have filed today with the South Carolina Court of Appeals.

Please call me if you have any questions.

Sincerely,

Eleanor Duffy Cleary
 Assistant Appellate Defender

EDC/kde

Enclosure

04 GS-02 1333

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Noel Gray, Appellant.

Appeal From Aiken County
Jackson V. Gregory, Circuit Court Judge

Unpublished Opinion No. 2008-UP-040
Submitted January 2, 2008 – Filed January 11, 2008

APPEAL DISMISSED

Eleanor Duffy Cleary, South Carolina
Commission on Indigent Defense, Division of
Appellate Defense, for Appellant.

Attorney General Henry Dargan McMaster, Chief
Deputy Attorney General John W. McIntosh,
Assistant Deputy Attorney General Salley W.
Elliott, of Columbia; Solicitor Barbara R. Morgan,
Second Judicial Circuit, of Aiken, for Respondent.

PER CURIAM: Gray appeals his life sentence without parole for two counts of second degree criminal sexual conduct with a minor. On appeal Gray alleges the trial judge erred by allowing a prior, out-of-state charge for aggravated child molestation to be classified as a most serious offense in South Carolina. After a thorough review of the record, counsel's brief, and Gray's *pro se* brief pursuant to Anders v. California, 386 U.S. 738 (1967) and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss[1] Gray's appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

ANDERSON, SHORT AND WILLIAMS, JJ., CONCUR

04 GS-02-1333

04 GS-02-1333

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

04 -GS-02- 1333
04 -GS-02- 1334



The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201

www.sccourts.org

September 28, 2006

Noel Gray #307590
Broad River Correctional
Institution
4460 Broad River Road
Columbia, SC 29210

Re: The State v. Gray, Noel

Dear Mr. Gray:

Your counsel has filed a brief indicating that this appeal is without merit and moves to be relieved as your counsel. Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L.E.2d 493 (1967). The records in this office reflect counsel served you with a copy of the brief and record on appeal on September 21, 2006.

You may, within forty-five (45) days of the date of this letter, file with this Court a pro se, brief addressing any issues you believe the Court should consider in this appeal. Upon receipt of your pro se brief or the expiration of forty-five (45) days, this appeal will be submitted to the Court for its consideration.

Very truly yours,

Kenneth A. Richstad
CLERK

KAR/nb

cc: Appellate Defender Eleanor Duffy Cleary
Assistant Deputy Attorney General Salley W. Elliott

(24-5)

GS-02-1333
GS-02-1334
04 04



~~CONFIDENTIAL~~

319
55

The South Carolina Court of Appeals

KENNETH A. RICHSTAD
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COLUMBIA, SOUTH CAROLINA 29211
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COLUMBIA, SOUTH CAROLINA 29201

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www.sccourts.org

November 20, 2006

Noel Gray #307590
Broad River Correctional
Institution
4460 Broad River Road
Columbia, SC 29210

Re: The State v. Gray, Noel

Dear Mr. Gray:

We are in receipt of your Pro Se Brief dated November 9, 2006, concerning the above entitled appeal.

By copy of this letter, all interested parties are informed of the filing of this information and are forwarded a copy for their records.

Very truly yours,

Kenneth A. Richstad
CLERK

KAR/nb

cc: Appellate Defender Eleanor Duffy Cleary
Assistant Deputy Attorney General Salley W. Elliott

~~EXHIBIT 17 #~~ (24-17)

(~~CONFIDENTIAL~~)

04 GS-02-1333

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY

JACKSON V. GREGORY, CIRCUIT COURT JUDGE

THE STATE,

RESPONDENT,

V.

NOELGRAY,

APPELLANT

FINAL PRO-SE BRIEF OF APPELLANT

NOELGRAY #307590

APPELLANT

BROAD RIVER CORR. INST.

4460 BROAD RIVER RD.

COLUMBIA, S.C.

29210

EXHIBIT #

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04 GS-02-1333 04 GS-02-1334

- STATEMENT OF ISSUES ON APPEAL -

Whether the State erred by using "Prosecutorial Misconduct" and "Unfair Prosecutor Tactics" as well as making "Bias Remarks" towards appellant to the "jury" during opening statements, and by allowing a "Law Enforcement Officer" to commit a "unlawful act" of "Purjury" while "under oath" as well as Linda Brown, Kristina Brown, and Mike Williams, And using "Professional Medical Experts" to bolster the Credibility of the witnesses "Due to false testimony" given to the jury "admitting to lying to the jury" and violating appellant's "Sixth" and "Fourteenth" Constitutional Amendment's. And by the "State" violating appellant's "Federal" Interstate Agreement on Detainer Act, I.A.D.A in which was filed by "Federal Authorities", (3 VIOLATIONS) on state.

And a violation of the state by sentencing the appellant to "Life without Parole" under the S.C. Code of Law 17-25-45 unlawfully in which cost the appellant his life. These violations from the State and the judge were unconstitutional and illegally unfair.

- STATEMENT OF THE CASE -

Appellant Noel E. Gray was indicted by the Aiken County grand jury August 3, 2004, for 2 counts of 2nd degree Criminal Sexual Conduct (C.S.C.) with a minor, ROAp. 271. Appellant proceeded to trial before the Honorable Jackson V. Gregory and a jury on January 31 through February 2, 2005. The jury found Appellant guilty on both counts. Appellant had a prior conviction for aggravated Child Molestation in Georgia, ROAp. 254 Lines 7-17. Pursuant to Section 17-25-45 of the South Carolina code of laws, Judge Gregory sentenced Appellant to Life without parole ROAp. 267.

This appeal follows.

-ARGUMENT-

The State erred by unlawfully using "Unfair Prosecutor Tactics" and making "Bias" remarks towards appellant during appellant's trial, (Opening Statement's) by state ROAp. 32 Lines 14-25,

"State's evidence" was Kristina's Mom, how she not only knew about and witnessed "Sexual Intercourse" but "sometimes participated in it."

ROAp. 32 Lines 14-20, the state stated "our job is to prosecute Noel Gray for C.S.C. with a minor, and all the indictments, it indicates that there's a Sexual Conduct "Battery"

S.C. Code of Laws 16-3-b55, A person is guilty of C.S.C 2nd degree with a minor, if actor engages in "Sexual Battery" with a victim who is 14 years old or less, but who is at least 11 years old.

"Sexual Battery" is Sexual Intercourse, Cunnilingus, Fellatio, anal Intercourse or any Intrusion, how ever slight, of any part of a person's body or any other object into the genital or anal openings of another person's body.

ROAp. 121 Lines 2-14, Direct Examination, "Medical Expert" stated she did "not" find any abnormalities, her exam on Kristina was normal. The Evidence on the States Case for "Sexual Battery" by

medical Expert was Negative, There were no grounds to prosecute for C.S.C. with minor 2nd. degree. These actions made by solicitor was "prosecutorial Misconduct" and deprived Appellant of a

fair trial, The State erred by allowing a "Law Enforcement Officer" give false testimony "Purgury" on the Stand under Oath,

ROAp. 33 Lines 13-18 in "Opening Statements" by Solicitor stating that David Blewins who investigated it initially was false statements.

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ROA.p. 101 Lines 4-23, by solicitor, Officer David Blewing of the Aiken County Sheriff's Department, committed the act of Perjury S.C. Code of Law § 16-9-10 (AX1) in which is a Felony, gave false testimony as well as Kristina, Linda and Mike who was a witness for the "State". Facts in the Supplemental Incident Report, Dated on the 10th day of September, 2002 Officer Tim Randall unit Number 4122 and the Aiken County Sheriff's Office Incident Report dated on the 10th day of September, 2002 Signed by Officer Tim Randall unit Number 4122 proves that not only did the State commit an unlawful act, but allowed an Officer of Law give false testimony under oath. ROA.p. 49 Lines 15-22 Linda Brown Direct Examination by "State". ROA.p. 81 Lines 12-19, minor Direct Examination by "State". This unlawful act violated my Constitutional Right to a fair trial and due process clause.

The State erred by using the "medical Experts" to bolster victims creditability and deprived appellant of a fair trial. State v. Rogers (S.C. 1987) 293 S.C. 505, 362 S.E. 2d. 7

As well as the mom Linda Brown (ROA.p. 56 Lines 11-21 In Cross-Examination, Linda admitted to first seeing sexual contact between Appellant and minor on her first visit back in October of 2004 to Solicitor Chandler. (2 years later)

ROA.p. 50 Lines 6-10 in Direct Examination by State, State was leading the witness, what did you tell him at the time with his second investigation or second interview, Linda stated: I can't recall, I'm sorry. State asked "Did you admit to him that they did have a relationship, Linda states" I think I did.

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ROA p. 74 Lines 20-22 Direct Examination by State,

State asked Minor, "Did he say what would happen if you told?"

Minor stated "He told me he would hurt me."

ROA p. 75 Lines 2-18, Minor a stated she was afraid he was going to go to jail, and that she still cared for him.

ROA p. 51 Lines 12-13 Cross Examination, Linda admits to lying to jury. ROA p. 52 Lines 5-12, Lying to Investigator, Lying to Solicitor, ROA p. 57 Lines 7-8, Lying to D.S.S.

ROA p. 53, 12-25 November to March 2001-2002 defendant was not there. November 13, 2001, defendant was arrested at 1078 Madison Ave. Aiken, SC. and taken to OLD AIKEN COUNTY Detention Center 420 Hampton Ave. 803-642-1790

Next day Linda Brown, Minor, and Lora Becky Williams came and saw Appellant and gave him \$20.00.

Later that month, Appellant was sent back to Brunswick, GA.

On a "Probation Violation" Minor's mom Linda Brown and Mike Williams drove to Georgia a 4 1/2 hour drive. to see Appellant two times. at the Glynn County Detention Center in Brunswick, GA. during appellant's stay in Georgia, Linda Brown "paid" Appellants restitution of \$1,000.00. Appellant made several phone calls to Linda from Georgia, at 803-652-1361 and 803-652-2965 in which is Mike Williams and Linda's Mom Mrs. Holt's phone numbers. March 27, 2002, Linda Brown and Mike Williams "paid" \$3,000.00 to Attorney George D. Bush 706-722-1200 in Augusta, Ga, and got Appellant out of jail in Georgia, Linda Brown, Mike Williams, Becky Williams

picked appellant up March 28, 2002 and took him to Georgia Regional Hospital in Savannah, Ga. for a Mental Health evaluation. And then took appellant back to the residence in which he was arrested at, 1078 Madison Ave. Aiken, S.C. 803-652-1361. The 10th day of April, May, June, July, August Linda and Mike Williams drove appellant back and forth to Brunswick, GA. to see Tom Moree which is appellant's Probation Officer. The end of June to July 5, 2002, Linda Brown took appellant, Minor, Mike Williams Jr. to Mt. Vernon, Ill a 16 hour drive one way to see appellant's Mom. Rented movies at Blockbuster Videos in Linda Brown's name. Came back to 1078 Madison Ave. Some time in July of 2002, Linda, appellant, Minor, Mike Williams, Mike Jr, Becky Williams and four other people "Linda's Friend" Michelle Cusimano, Gus Cusimano R.O.A p. 7 Lines 9-12 and their two children. Went camping at Myrtle Beach for (4) days. July 29, 2002 appellant got arrested for Simple Larceny Warrent No. I-115074, in which Linda Brown and Mike Williams paid \$ 1062.50 to Judge Donna D. Williams 803-652-7770 on the 30th day of July 2002. September 10, 2002 Officer Tim Randall of the Aiken County Sheriff's Department and Officer Hew Ray of the New Ellenton Police Department, talked to "Minor" at school and then came to 1037 Cedar St. and talked to Linda and "Minor", Both denied Sexual Assault. Around 12 minutes same two officers returned to residence after leaving Mike Williams house, asking Linda to get

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appellant, they needed to talk to him. Appellant talked to Officers about a burglary. Appellant stated that he had no knowledge of it. Officer Hew Ray asked Appellant about a Rifle. Appellant gave officers a Universal Firearm, Model 1000 military, .30 caliber Carbine Serial No. 317222 in which they took, appellant was not arrested.

Appellant and Linda Brown got into a argument about Mike Williams. And appellant Left.

ROA p. 87 Lines 6-17 Minor admits appellant Left. 1

Sameday appellant left. Linda tried to run over appellant with her car, Mind was in the cars well. Police was looking for appellant, Linda Brown had a Criminal Domestic Violence on husband Greg Brown ROA p. 24 line 24 and a restraining order on him as well in which Linda Brown moved back in with husband which violated her order and moved back to mikes once appellant was released back in March 2002. Linda took appellant to Victim Services in Aiken trying to pen an Adultery case on him with pictures of Linda's husband and Beck, Williams in an sexual engagement. Linda went to husband's trailer after appellant left and husband and Linda's dad haywardholt had shot Guns looking for appellant. On September 29, 2002 Linda put a false Criminal Domestic Violence § 16-25-20 on appellant. Appellant was not there. See ROA p. 87 Lines 6-17.

September, 2002 Special Agent J. Richard Brown
(A.T.F.) ran an Interstate Nexus Statement on firearm.
September 24, 2002, Special Agent Brown test fired Rifle

with Investigator Tim Randall, who retrieved rifle day
the appellant left linda. During this time, the United States
Government placed an Indictment on appellant,
U.S. v. Noel Gray Criminal # 1:03-263 18 U.S.C. § 922(g)(1),
18 U.S.C. § 924(a)(2) with Larry W. Probes Clerk, at the
Federal Court House here in Columbia, S.C. April 8th, 2003
appellant was arrested in Covington, Kentucky at road Block
"rutine traffic Stop." July 23, 2003 appellant was sentenced
to 30 months to "Federal Prison" by the Honorable Patrick M. Duffy
here in Columbia, S.C. November 5, 2003 was the final
Judgement on Sentence.

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- STATES VIOLATIONS ON I.A.D.A. -

The State erred by violating appellant's I.A.D.A. Interstate Agreement on Detainer Act. May 5, 2004, the United States Federal Prison in Lexington, Kentucky in which the appellant was serving his 30 month sentence, filed the I.A.D.A. to Solicitor Barbara Morgan Solicitor for the Aiken County Courts. September 1, 2004, the Aiken County "Blood hound" Sheriff's Department took appellant from prison in Kentucky and brought him to the Aiken County Detention Center. So, October 14, 2004 Investigator Bennie Williams seen appellant and signed Consent For Release of Confidential Information to Attorney George Bush of Augusta, Ga. in which Linda Brown paid to have me released. Prosecution Deadline was 11-11-04. On August 3, 2004 Public Defender sent appellant form that he has been indicted by the General Sessions Court. On February 2, 2005 appellant was tried by Jury and Sentenced to Life without Parole "4 months later" The State failed to convict appellant within the 180 day I.A.D.A. "There was no extension Filed" In the I.A.D./STATE WRIT - "Prosecutor's Certification" Conditions C.D.E. were violated also. "Violation C" On February 15, 2005, appellant was sent to Kirkland R+E by officers Bowman and Etheridge of the Aiken County Detention Center "Transport"

- SEE ATTACHMENT -

"Violation D" Failed to send appellant back to prison upon his trial ending in which appellant returned to prison "Federal" March 15, 2005, Trial ended February 2, 2005.

"Violation E" Failure to notify jail of the responsibility to return appellant to Federal Custody.

The State violated the Offer to Delivery Temporary Custody.

The State violated the Agreement on Detainers Form VII.

Appellant filed grievances on the State's and the jail's violations February 27, 2005 to Lt. Carter and Capt. Egerton on the 28th. Aiken County Detention Center.

Due to State violating these said forms, I had 2 boxes total of \$450.00 of personal belongings that were destroyed at R+E due to the States violations. January 10, 2005 I wrote Judge Early concerning these violations, The Circuit Court of the Second Judicial Circuit.

January 7, 2004, I wrote to Wallis Alves, appellant's Public Defender's Boss, concerning that Public Defender erred by not bringing up the violations that the State unlawfully committed.

On Form Agreement on Detainers VI, one of these officers did not take appellant back, A Lieutenant for the Aiken County Sheriff's Department did in which violated it.

The State and the Judge as well as my Public Defender deprived appellant of a fair trial and unconstitutionally took his life away from him.

The appellant's Public defender had Attorney George Bush of Augusta, GA, Officers Tim Randall and Hew Ray and pictures and letters and documents subpoenaed to Court, in which nothing ever showed up.

This is a violation of appellant's Fourteenth and Sixth amendments.

In ROAp. 32 Lines 20-25 opening statements of state using Linda Brown and doctors as evidence to prove state's case of C.S.C. 2nd degree

State v. Gilchrist, 350 S.C. 221, 565 S.E. 2d. 281 (2002)

ROAp. 102 Lines 5-24, Officer Blevins, ROAp. 122 Lines 4-25

Dr. Bethea, ROAp. 134 Lines 4-25, ROAp. 135 Lines 1-25,

ROAp. 136 Lines 1-25, ROAp. 137 Lines 1-25, ROAp. 138 Lines 1-25

ROAp. 139 Lines 1-25, ROAp. 140 Lines 1-6, Dr. Benedetto

State used to bolster credibility of alleged victim and mom as well where credibility was a major issue on the element of penetration.

Orr v. State, 584 S.E. 2d. 72 (GA. Ct App. 2003)

State v. Rogers (S.C. 1987) 293 S.C. 505, 362 S.E. 2d. 7.

PRIOR CONVICTION V. CRIMINAL SEXUAL CONDUCT

The State erred by not providing sufficient evidence to support "Sexual Battery" S.C. code § 16-3-655

State v. Johnson, 512 S.E. 2d. 795 (S.C. 1999).

The State erred by using "Past Criminal History" to aggravate the S.C. code 17-25-45 and unlawfully taking appellant's Life.

ROAp. 254 Lines 7-17, ROAp. 267.

"Past Criminal History" In Georgia, appellant was sentenced to 15 years for Aggravated Child Molestation and Child Molestation on March 28, 1989.

Count 1, Sodomy Licking the Vagina of a child under 14 years of age, with clothes on

Count 2, Rubbed penis on vagina of a child under the age of 14 years.

In South Carolina, these 2 crimes are considered as

Count 1, Sodomy code 16-2-16-413.1

Count 2, Lewd act to a minor code § 16-15-140

Evidence shows the State "violated" the South Carolina Code of laws and deprived appellant of a "constitutionally fair" trial in which cost the appellant his life.

~~STATE V. JOHNSON, (S.C. 1999) 512 S.E. 2d. 795, 306 S.C. 2d. 871~~

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The Judge erred by violating appellant's Constitutional Rights to due process and failed and deprive appellant of a fair and Constitutional "Legal" Trial.

ROAp 257 Lines 21-25 The Judge agreed with appellant that his trial was not fair either. But that's beyond his power.

Due to the judge neglecting his authority and power as the Honorable of the Courts, deprived appellant his fair trial and cost the appellant his life.

These actions are unreasonably unfair, bias, and unconstitutional.

Jackson V. Virginia Cite as 99 S.Ct. 271 (1979)

The RUA clearly shows that Linda Brown had a vendetta against appellant for spending money on him and he left her. RUA shows also, mom acted out of revenge to get even with appellant. ROAp 87, Lines 6-20

State V. Schmidt Appellant

No. 22511 Supreme Court of South Carolina

Heard March 10, 1986 Decided March 31, 1986

- Reversed and Remanded -

- STATES VIOLATIONS ON I.A.D.A. -

United States v. Breckenridge, 93 F.3d.132 (4th. Cir. 1996)

Remanded case for evidentiary hearing to determine whether prior offenses "were related" in which this case "State v. Noel Gray";

Prior offenses "were not related" to C.S.C with minor 2nd degree. Evidence shows that no "penetration" was committed in prior offences, but declared that if they are not, trial Counsel was ineffective for failing the issue to raise States unlawful act of using the "recidivist statute" illegally, and to prevent appellant from being sentenced as a Career Criminal. Ordered Court to "Vacate Sentence", and to sentence if prior offenses related.

U.S. v. Mauro, 436 U.S. 340, 98 Sth. Cir. 1934, 56 L.Ed. 2d 329 (1978)

The "State" is bound by the Interstate Agreement on Detainers when it activates it's provisions by filing a detainer against a "Federal Prisoner", and then obtains his custody by means of a writ or Habeas Corpus and Proscyeddum. Therefore, the indictment was "properly dismissed" because the "State violated portions of the I.A.D.A." by not trying the individual within 120 days of his arrival in State Court.

U.S. v. Crawford, 982 F.2d.199 (6th. Cir. 1993)

When defendant was "not tried" within the time limit of the Speedy trial Act, and the court neither explicitly granted a continuance nor explained the "reasoning" that would have motivated a conclusion that a continuance would serve the ends of "Justice" the "Indictments were dismissed"

ROA clearly shows that the "State", the "judge", the appellant's
"Public Defender" were using "Unfair Prosecutor Tactics",
"Making Bias" Statements and "Prosecutorial Misconduct" and
~~Ineffective Assistance of Counsel~~, and violated appellant's
Fourteenth and Sixth Amendments, in which deprived the
appellant of a fair and "Constitutional" trial.

These "Errors" of the State cost the appellant his life.

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- CONCLUSION -

Based on the foregoing, appellant's case should be Reversed and Vacated without further legal advancements.

Appellant wishes not to sue the state for taking his Life away from him, if sentence is vacated, and will leave the State permanently without future return.

Respectfully Submitted

Noel E. Gray

NOELE GRAY

Appellant

This 12th day of November, 2006

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY

Jackson V. Gregory, Circuit Court Judge

THE STATE

RESPONDENT

V.

NOEL GRAY

APPELLANT.

CERTIFICATE OF SERVICE

The undersigned Appellant hereby Certifies that a true copy of the Final Appellant's Brief of appellant in the above referenced case has been served upon Salley W. ELLiot, Esquire, this 12th day of November, 2006. A copy

Noel E. Gray Jr.

NOEL GRAY

APPELLANT

SUBSCRIBED AND SWORN TO before me
 this 13th day of November, 2006

Elizabeth Work (L.S.)

Notary Public for South Carolina

My commission Expires: July 29, 2007

04 GS-02-1333

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August 29, 2011

South Carolina Attorney General's Office

P.O. Box 11549

Columbia, South Carolina 29211

CASE NO: 2004-GS-02-1333-1334

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Dear Attorney General,

Hello, my name is Noel Gray # 307540, my reason for writing you is not to play games or try to lie to you in any way. I believe in honesty and truthfulness.

I was sentenced to life without parole on February 2, 2005 at the 2nd Judicial Circuit Court of Aiken County for 2 counts of Criminal Sexual Conduct C.S.C. 2nd and 3rd degree. During the course of my trial the alleged victims mom told the truth about lying about this case. App.p. 51 at 12-14; App.p. 52 at 5-14; and Linda Brown also wrote a letter to law enforcement November 2001 concerning me. The alleged victim also admitted to a Unlawful (Tr.p. 54 at 10-25 L.B.) App.p. 87 at 6-20 and she also wrote letters to police concerning me App.p. 85 at 12-25

Attorney General, I took that life sentence because I was not guilty of this crime. See Dr. Beecher App.p. 120 at 22-25 and App.p. 121 at 1-14. I see people here every day who actually penetrated children in a very sick and unusual manner. I believe in Justice being served if you done the crime, But to be so unlawful like the Solicitors Office was to me, It was not fair. I came straight from Federal Prison on a I.A.D.A. Interstate Agreement on Detainers Act Contract in which the State violated it several times. That was also unlawful. I did nothing to deserve a natural life sentence nor did I deserve the Unconstitutional Trial I received. I never even got the ability to plea to a lesser included offense or to the Grand Larceny Charge that they alleged as well. I left this woman

because she was married and when I did 19 days later she calls
 police Left the 11th of Sept. she calls police Sept. 30, 2002 Also
 she filed a Criminal Domestic Violence Charge on me on the 24th
 of Sept. I was not even there See Tr.p. 87 at 6-20 Also if you were
 to research the allegations to D.S.S and the A.R.C. you will see that
 there were other People messing with her, but no body ealc was
 interviewed or Investigated See App.p. 109 at 1-25; App.p. 113 at
 L-5 Police never knew L.B was supposed to be involved. or any one else.
 Linda Brown and Mike Williams obtained a Attorney for me during
 the 2001 November to March 26, 2002 months Attorney George Bush
 706) 722-1200 for verification to prove this. Also Police Reports
 from Sept. 11, 2002 both Mother and alleged victim denied allegations
 of Sexual Assault, Also July 30, 2002 L.B. paid a \$1,062.50
 Simple Larceny Warrant No. I-115074 to Judge Donna D. -
 Williams 803) 652-7770 for verification. Also D.S.S. Reports
 dated November 19, 2004 I told D.S.S. That Mike Williams was messing
 with Kristina But they did not do anything. November 8, 2004
 Linda Brown told D.S.S. That Mike's wife Becky was molesting her
 child, "never told anyone until now", and also stated that she had
 a suspicion that her boyfriend was, but did not know for sure
 until the neighbor told her. October 26, 2004 The alleged victim
 told D.S.S. Mike's wife Becky was messing with her and that
 she does not like Mike "I wonder why" and that she has not
 observed her parents fighting" But Tr.p. 42 at 16-25 and also
 to prove that Linda was married and she was lying about it see
 Tr.p. 42 at 12-25 and Tr.p. 52 at 19-25 she was lying about the whole
 deal. Attorney General I am Not guilty of this C.S.C. mess but I
 was guilty for being with a married woman, I was also guilty
 for the Grand Larceny, It's not fair to be accused of a Crime when
 a Vauderes is established and It's not fair to play with people's

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Lives. I'm coming to you Straight and honest, I don't want to sue any body for being falsely accused of something I did not do. I will plea guilty to Grand Larceny. Attorney General, Honesty is the best policy. I'm a firm believer of it, Please

I did not do any thing to deserve a Life Sentence, And I'm man enough to ask you for help in this matter. I'm also sending a copy of this letter to the Federal Habeas Corpus in Florence C/A NO: 4:11-227-CMC-TER Gray, Noel v. Stevenson.

Please see it in your heart to see that I'm a victim of a Vindetta and I really need the States help. The word of God Clearly State The Truth shall set you free. Please don't look at the Crime, look at the person and his evidence. In Good faith I remain.

Respectfully Submitted

Noel Gray #307580

Murray #212

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, S.C.

29210

Sworn and Subscribed before me

this 29 day of Aug, 2011

by Eugene Kett
Notary Public for South Carolina

My Commission Expires April 4, 2018

My Commission Expires: _____

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04 GS-02-1335
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Noel Gray #307540
Murray #212
B.R.C.I.
4460 Broad River Rd.
Columbia, S.C. 29210

August 29, 2011

Aiken - Barnwell Mental Health Center
Hartzog Center
431 Martintown / Richland Rd.
Aiken S.C. 29841

Dear Records Dept.

This lawful request of information is being sought pursuant to the Federal Freedom of Information Act, F.F.O.I.A [and the Privacy Act (P.A)] 5 U.S.C. § 552; 5 U.S.C. § 552(a) 9.C. Code Ann. § - § 30-4-10 through § 30-4-165 (1999 and Supp. 2005)

Please be advised that as the requested information is solely for litigational purposes; and shall not be made commercial or public use. That the above cited F.F.O.I.A. grants a 34 waiver of any/all fees related to research, copy, return postage, and review to determine if any exemption within cited F.F.O.I.A.'s apply.

Please note that by these grants as an indigent litigant affiant does not expect to be charged fees for said services.

Cited F.F.O.I.A. also allows that all the requested must be provided to affiant, but that Social Security numbers may be Segregated (blacked) and balance forwarded to affiant with exact exemption granted by F.F.O.I.A. cited.

INFORMATION REQUESTED AS FOLLOWS:

- 1) Complete Copy of "Minor ... , D.O.B. ... ; WF;
1015 Washington Dr. New Ellenton, S.C. Mental
Health Records dated from November 2001 through Sept. 31, 2002.

The sole purpose of this information will allow me to prove that her mother Linda M. Brown, D.O.B. ... SSN. ... , WF; 1015 Washington Drive did in fact lie to police concerning that Minor did not have a Mental Health Background in which she did. I can prove a Vindetta. I was given a Natural Life Sentence for a Crime I did not commit. This information is very valuable to me. My life counts on it. Respectfully Requested.

Affiant request a timely (F.F.O.I.A. grants 20 days to reply to this request with a Clock Stamped Received Copy of this request and awaits your reply.

S/Noel Gray #307540 /Affiant
All rights Reserved
cc/File / S.C. Court Admin. / A.B.M.H.C.

Noel Gray #307540
Petitioner

) Case No. 2004-GS-02-1333-1334.

)

)

US.

)

DECLARATION OF SERVICE

Aiken-Barnwell Mental Health)

- BY U.S. MAIL -

Hartzog Center)

Respondent.)

I Noel Gray #307540 the undersigned, declares,

I am a party of this action acting in "Good Faith" on

August 29, 2011. I the Petitioner/Affiant in pro-per, I served
the within notice of the Federal Freedom of Information Act.
(F.F.O.I.A) 5 U.S.C. § 22 552, [and the Privacy Act (P.A.)
5 U.S.C. § 552(a)] and S.C. Code Ann. § 30-4-10 / § 30-4-165
(1991 and Supp. 2005) Declaration of Noel Gray #307540 in good-
faith to the following interested parties by mailing, with postage
pre-paid and a true copy thereof, to:

Aiken/Barnwell Mental Health
Hartzog Center
341 Martintown / Richland Ave.
Aiken, S.C. 29841

S.C. Court Admin.

S.C. Supreme Court

1015 Sumter St. Suite 200

Columbia, S.C. 29201

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AUG 29 2011

BRCI
MAILROOM

Noel E. Gray Jr. # 307-590
Murray # 212
4460 Broad River Rd.
Columbia, S.C. 29210

August 29, 2011

New Ellenton Police Department
Office of Reports and Records
200 Main Street
New Ellenton, S.C. 29809.

Dear Officer of Records / Reports.

This lawful request of information is being sought pursuant to the Federal Freedom of Information Act (F.F.O.I.A), 5 U.S.C. - §§ 552, [and the Privacy Act (P.A.), 5 U.S.C. §§ 552(a)], and South Carolina Code Ann. §§ 30-4-10 through §§ 30-4-165 (1991 and - Supp. 2005.).

Please be advised that as the requested information is solely for litigational purposes, and shall not be made commercial or public in use. That the above cited F.F.O.I.A grant for a waiver of any / all fees related to research, copy, return postage, and review to determine if any exemption within cited F.F.O.I.A.'s apply.

Please note that by these grants as a indigent litigant affiant does not expect to be charged fees for said services.

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Cited F.F.O.I.A's also allows that all the requested must be provided to affiant, but that Social Security numbers Bank and Credit Card accounts may be segregated (blackened) and balance forwarded to affiant with exact exemption granted by F.F.O.I.A.'s Cited.

INFORMATION REQUESTED AS FOLLOWS:

1.) all records and Reports dated from January 2000 to September 30th of 2002 regarding GREG BROWN (PERPETRATOR),

D.O.B. 19, sex: MALE, S.S.N. , Race: white

Household: 5 Washington Drive, New Ellenton. Regards to Criminal

Domestic Violence "Domestic Disputes" Regarding alleged

Victim: LINDA M. BROWN, Alleged Victim, D.O.B. ,

Sex: Female, Race: White, Washington Dr. New Ellenton or

Madison Ave. New Ellenton, S.C.

2.) Name and Location and files/Reports from Victim Services, Warrants, Charges and Sentences concerning C.D.U. on perpetrator Greg Brown.

Affiant request a timely (F.F.O.I.A. grants 20 days to reply to this request. with a clock stamped received copy of this request, and awaits your reply.

Respectfully Submitted.

Noel Gray #307590

Petitioner

) Case No. 2004-65-02-1333-1334

Us.

) DECLARATION OF SERVICE

) - BY U.S. MAIL -

New Ellenton Police Department)

Officer of Records / Reports)

Respondent.)

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I Noel Gray #307590 the undersigned, declares:
 I am a party of this action acting in Good Faith on
August 29, 2011. I the Petitioner / Affiant in Pro-Per, I served the
 within notice of this Federal Freedom of Information Act (F.F.O.I.A).
5 U.S.C. § 552 [and the Privacy Act (P.A.), 5 U.S.C. § 552(a)], and
 South Carolina Code Ann. § 30-4-10 through § 30-4-165 (1991 and Supp. 2005),
 Declaration of Noel Gray #307590 In good faith to the following interested
 parties by mailing with postage pre-paid and a true copy thereof to:

New Ellenton Police Dept.

Officer of Reports and Records

200 Main Street.

New Ellenton, S.C. 29809.

~~S.C. Bar~~~~950 Taylor St.~~~~P.O. Box 608~~~~Columbia, S.C.~~~~29202-0608~~

S.C. Court Administration

S.C. Supreme Court

1015 Sumter St. Suite 200

Columbia, S.C. 29201

S/Noel Gray A-307-590 /Affiant
All rights reserved
CC/FLE / S.C. Court Admin. / ~~S.C. Bar Assn.~~

Sworn and Subscribed into a lawful document of request
before me a duly Authorized Notary for the Public of the State
of South Carolina on this 29 day of Aug,
2011. A reply is lawfully commanded in this matter.

s/ Eugene Ker
Notary Signature / Seal

My Commission Expires April 4, 2016

My Commission Expires:

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Noel Gray # 307590
 Murray # 212
 4460 Broad River Rd.
 Columbia, S.C. 29210

August 29, 2011

Aiken County Sheriff's Department
 Officer of Records / Reports.

420 Hampton Ave.

Aiken, S.C. 29801

RECEIVED

AUG 29 2011

BRCI
 MAILROOM

Dear Officer of Records / Reports

This lawful request of information is being sought pursuant to the Federal Information Act (Freedom) of Information (F.F.O.I.A) 5 U.S.C. § 552 [and the Privacy Act (P.A.) 5 U.S.C. § 552(a)], and ~~1994~~ South Carolina Code of Laws § Ann. 30-4-112 through 30-4-165 - 1991 and Supp. 2005).

Please be advised that as the requested information is solely for litigational purposes, and shall not be made commercial or public, in use. That the above cited F.F.O.I.A grant for a waiver of any/all fee's related to research, copy, return postage, and review to determine if any exemption within cited F.F.O.I.A. apply.

Please note that by these grants as an indigent indigent affiant does not expect to be charged fee's for said services.

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Cited F.F.O.I.A's also allows all the requested must be provided to affiant, but that Social Security, Bank and Credit Card Numbers and accounts may be segregated (blacked out) and balance forwarded to affiant with exact exemption granted by F.F.O.I.A.'s Cited.

INFORMATION REQUESTED AS FOLLOWS:

- 1) All reports and Records dated from January 2000 to Sept. 31, 2002 regarding "Perpetrator" Brown, Greg; WM; DOB: ...; SSN: ... 115 Washington Drive, New Ellenton, S.C. In regards to Domestic Dispute "Criminal Domestic Violence" on alleged Victim Brown, Linda; WF, DOB: ...; SSN: ... Washington Drive, New Ellenton or 1078 Madison Ave, New Ellenton.
- 2) Reports and files regarding to November 2001 in connection to the arrest of Noel Gray; WM; DOB: ...; SSN: ... Probation Violation from Brunswick, GA. arrested at 1078 Madison Ave, New Ellenton, S.C.
- 3) Visitation Records on November 2001 where 3 individuals came to the old Aiken Co. Detention Center and visited Noel Gray.
- 4) Full and complete files and reports concerning 2004-GS-02-1333-1334 Gray, Noel v. State. 2001-2002.
- 5) Full and complete Medical Files and DNA Records of Alleged victim Minor ... Brown (Alleged victim) WF, DOB: ... SSN: ... 1078 Madison Ave, New Ellenton, S.C. or 1015 Washington Dr. New Ellenton, S.C.

6) names and Information concerning (2) Aiken County Sheriff's Dept. officers who went to Kentucky to obtain Gray, Noel Sept. 1, 2004 and bring him back to trial. Federal I.A.D.A.

7) names and Information concerning the Sgt. or Lt. who drove Gray Noel Back to Kentucky 2005.

Affiant request a timely (F.F.O.I.A. grants 20 days to reply to this request. with a Clock Stamped Received Copy of this request, and awaits your reply..

/ Noel Gray #302590 / Affiant

all rights reserved

CC/FILE / S.C. Court. Admin. / A.C.S.D.

Sworn and subscribed into a lawful document of request before me
this 29 day of Aug, 2011

Eugene Bell
Notary Public for South Carolina

My Commission Expires: _____ My Commission Expires April 4, 2018

Noel Gray #307540

Petitioner,

US.

Case NO: 2004-GS-02-1333-1334

DECLARATION OF SERVICE

- BY U.S. MAIL -

Aiken Co. Sheriffs Dept.

Officer of Reports / Records

Respondent

I Noel Gray #307540 the undersigned, declares:
 I am a party of this action acting in "Good Faith" on August 29,
 2011. I the petitioner / Affiant in Pro-Per, I served the within notice
 of the Federal Freedom of Information Act's (F.F.O.I.A) 5 U.S.C -
 § 552 [and the Privacy Act (P.A), 5 U.S.C. § 552(a)] and
 S.C. Code Ann. § 30-4-10 through § 30-4-165 (1991 and Supp. 2005)

Declaration of Noel Gray #307540 In "good Faith" to the following
 interested parties by mailing with postage pre-paid and a true copy
 thereof to:

S.C. Court Administration

S.C. Supreme Court

1015 Sumter St. Suite 200

Columbia, S.C. 29201

Aiken Co. Sheriff's Dept.

420 Hampton Ave.

Aiken, S.C. 29801

04 GS-02-1333-1334

Noel Gray #307590

Murray # 212

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, South Carolina

29210

September 29, 2011

Honorable Clerk of Court's Office
2nd Judicial Circuit Court House

P.O. Box 583

Aiken, South Carolina

29802-0583

RECEIVED

SEP 29 2011

BRCI
MAILROOM

Dear Honorable Clerk of Court,

This lawful request of information is being sought pursuant to the Federal and State Freedom of Information Act's (F.S.F.O.I.A) - 5 U.S.C. § 552 [and the Privacy Act (P.A), 5 U.S.C. § 552(a)], and South Carolina Code Ann. §§ 30-4-10 / 30-4-165 (1991 - Supp. 2005)

Also this requested information is solely for litigational purposes, and shall not be made commercial or public in use. And the South Carolina Bar instructed to obtain this vital information from your office.

FILED

September 30 2011
Liz G. Ford
Deputy Clerk

- REQUESTED INFORMATION -

1. A complete print out regarding All cases / Docket Numbers for all cases pertaining to a Sexual Nature, prosecutor and outcomes

See Attachment of August 23, 2011 (1)
- Aiken, SC KIPP, 0 29210

01334
GS-02-1333
04

of Plea Agreements, Trial Court, Guilty, Not Guilty etc. etc,
that Aiken County Public Defender Kelly Perkins Brown Esquire has
represented in the Open Court System since her Graduation from
the University of South Carolina 1997, to February 10, 2005 also
included All Jury Trials between the above dates.

Affiant requests a timely (F.S.F.O.I.A's) grant
15 working days reply to this request with a Clock Stamped
received copy of this request, and awaits your reply. Also is
enclosed a Self addressed Envelope.

3/1/06 May #307590

All Rights Reserved

cc/File / S.C. Court Admin.

Sworn and Subscribed before me

this 29 day of Sept, 2011

X Eugene Becht
Notary Public for South Carolina

My Commission Expires April 4, 2018

My Commission Expires

Application To Proceed without Payment
of Costs And Affidavit in Support
there of

I Noel Gray #307590 hereby apply for leave to proceed

In this Federal and State Freedom of Information Act Request without
payment of fee's or cost's or security therefore. 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
request or give Security there of

Noel Gray #307590
Applicant

Sworn and Subscribed before me ~~this~~
this 29 day of Sept, 2011

x Eugene Keith
Notary Public for South Carolina

My Commission Expires April 4, 2018

My Commission Expires: _____

GS-02-1332-04 GS-02-1334



State of South Carolina

Department of Mental Health

2414 Bull Street • P.O. Box 485
Columbia, SC 29202
Information: (803) 898-8581

John H. Magill
State Director of Mental Health

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
Joan Moore, Vice Chair
Jane B. Jones
Everard Rutledge, PhD
J. Buxton Terry

October 7, 2011

Mr. Noel Gray - #307590
Murray #212
Broad River Correctional Institution
4460 Broad River Rd.
Columbia, SC 29210

Mr. Gray:

The South Carolina Department of Mental Health (DMH) Office of Public Affairs has received your Freedom of Information Act request, dated August 29, 2011.

Information regarding individuals who are receiving or have received treatment services from the Department of Mental Health is Protected Health Information made confidential by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and South Carolina confidentiality laws. Such information is protected from disclosure under those laws and is exempt from disclosure under the South Carolina Freedom of Information Act because they are medical records, which are excluded from the definition of "Public Records" in Section 30-4-20 (C).

Sincerely,

Tracy LaPointe
SCDMH Office of Public Affairs

CC: John H. Magill, State Director
Mark Binkley, General Counsel
Kim Carter, DMH Office of General Counsel
Brenda Hart, Deputy Director, DMH Administrative Services
Geoffrey J. Mason, Deputy Director, DMH Community Mental Health Services
Rick Acton, Director, Aiken-Barnwell Mental Health Center

MISSION STATEMENT

To support the recovery of people with mental illnesses.



1333
GS-02-1333
04

62

Aiken Standard, Aiken, S.C., Friday, January 28, 2005 — 3A

Gray's trial date is set for Tuesday

By ERIN BROOKS
Staff writer

The trial for a Georgia man who stands accused of criminal sexual conduct with a minor is scheduled to begin Tuesday at the Aiken County Judicial Center.



Gray

County.

Assistant Solicitor Everette Chandler with the Aiken County Solicitor's Office will be the lead prosecuting attorney in the case.

Brenda Brisbin, assistant solicitor and sexual crimes coordinator, will sit second counsel to Chandler.

According to Brisbin, a minor must be between the ages of 11 and 15 for criminal sexual conduct to be in the second degree.

Gray will be represented by Kelley Brown with the Public Defender's Office.

Fourteenth Circuit Judge Jackson Gregory will preside.

The jury will be selected Monday.

was arrested Feb. 10, 2004, and charged with two counts of criminal sexual conduct with a minor in the second degree.

The minor is from Aiken

04 GS-02-1333 104

GS-02

359 Sunday
2005

Aiken

LOCAL NEWS

To report a news tip or for story ideas:

Call Michael Gibbons, City Editor,

at 648-2311 ext. 279

or e-mail to editorial@aikenstandard.com

Read us online: www.aikenstandard.com

Page edited by: Kimberley Kirkey

Trial begins for man accused of sex crimes

By ERIN BROOKS
Staff writer

The trial for an Augusta man accused of sexually assaulting his girlfriend's daughter began Tuesday at the Aiken County Judicial Center.

Noel Eugene Gray Jr., 34, was arrested in February 2004, and charged with two counts of criminal sexual conduct with a minor in the second degree.

According to Assistant Solicitor Everette Chandler, Gray sexually assaulted the victim multiple times in Aiken County between July and November 2001 and in September 2002.

In his opening statement, Chandler painted a grim picture of the events he said led to the repeated molestation of a young girl in a small-knit community.

"The victim, who was dealing with the separation of her parents, moved in with her

mother and a close family friend," said Chandler. "Then the mother's boyfriend moved in and began to behave inappropriately, having sexual intercourse with the victim on numerous occasions."



Gray

would someone get up there and say such awful things if they weren't true?" said Brown. "Often times we have no idea why someone would tell us things that aren't true. Sometimes they tell the story so often, they start to believe it."

The teenager, now 16, testi-

fied that Gray had sex with her frequently in their home and the home of a family friend, but she didn't tell anyone because she was scared.

"He told me not to tell anyone," the victim testified. "He said he would hurt me."

Investigator David Blevins with the Aiken County Sheriff's Office said in his testimony that he was assigned to the case after he received an anonymous call that there was an alleged sexual assault.

"I made contact but the allegations were denied by both (the victim and her mother)," said Blevins. "So I closed the case as unfounded."

Two weeks later Gray moved out and Blevins received a call from the victim's mother, who said her daughter had, in fact, been assaulted. Assistant Solicitor Brenda Brisbin asked the girl why she didn't say anything

until after Gray left.

"I knew 'Junior' wasn't going to do anything to me," she said.

The girl also testified that her mother was also present during several of the encounters.

"She was in the bed," she said.

In cross examination, Brown asked the teen about her interviews with Blevins.

"When you talked to Investigator Blevins the second time, you still didn't tell him about your mother's involvement," said Brown.

"I didn't know she knew," said the girl.

"You don't want your mother to get in trouble, right?" asked Brown. "That's why you didn't say anything about her involvement." The victim's mother testified that she knew what was going on and was even involved on occasion, although she originally denied

the allegations.

"You didn't tell (Blevins) you knew all along, you witnessed it and you participated in it," Brown said to the victim's mother. "You kept lying to Investigator Blevins and you lied further to protect yourself from the DSS investigator."

"I was scared of what would happen to my kids and what would happen to me," the mother said.

Brown asked the woman if she was scared of going to jail, to which she responded, "Yes."

"So, you are hoping and praying your testimony will keep you out of jail?" asked Brown.

"I hope it will help," said the girl's mother, between sobs. "I just want this nightmare to be over."

The state is expected to rest its case today.

Contact Erin Brooks at
ebrooks@aikenstandard.com

November 17, 2010

Dear Honorable Clerk,

I would like to respectfully request
for the Application to obtain the D.N.A. Records
that pertain to my case.

Sir I am innocent of my crime and
I greatly appreciate your time and help in this
matter.

In Kind regards I remain,

Respectfully Requested

Noel Gray #307590

~~Noel Gray~~ #307590

Murray #212

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, S.C.

29210

RECEIVED

NOV 19 2010

S.C. SUPREME COURT

RECEIVED

NOV 19 2010

S.C. SUPREME COURT

mailed form
SCCA DNA 101
on 11/19/10. (J)

(P.179)

EXHIBIT #171

1221
1233
1233

RECEIVED MAR 10 2010

Dear Release of Information Section;

Hello. My name is Noel Gray #307590. I'm writing you concerning a "Complete Copy of the Medical Records of

Minor n D.O.B. S.S.N. 3

, Washington Dr. Aiken, S.C. 29803 803)

Information concerning October 4, 2002, of a Alleged Sexual Assault Exam, Lab Reports of her E.R. Cultures of a HIV, RPR, GONARRHEA Culture and GC and Chlamydia D.N.A Probe was done. I'm trying to prove my innocence and I am serving time for a crime I did not commit. Her mom Linda Brown Framed me for leaving her. This Information and Request is under the State Freedom of Information Act under S.C. Code - Ann. § 30-4-10 through § 30-4-165 and the Privacy Act of 1974, Title 5 of the U.S.C. Section 552(a).

I am requesting this information no later than 30 days of this request.

Respectfully Requested.
Noel Gray #307590
Noel Gray #307590
Murry #212
B.R.C.I.
4460 Broad River Rd.
Columbia, S.C. 29210

EXHIBIT #18⁵

CC/FILE

Date: 3/10/10

To: Noel Gray #307590
Murry #212
BRCI
4460 Broad River Rd
Columbia, SC 29210

From: Health Information Management Department

AIKEN REGIONAL MEDICAL CENTERS
MEDICAL RECORDS DEPARTMENT
302 UNIVERSITY PARKWAY
AIKEN, SC 29802-1117

Re: Unauthorized HIPAA with Reason
Medical Records Request for Kristina Brown

Dear Requester:

HealthPort is under agreement with this medical facility to release all authorized copies of medical records. Federal and other law protects the confidentiality of the records.

Therefore, HealthPort employees will not forward confidential records without the proper authorization. We have checked the patient's file and regret that we cannot respond to your request for records at this time due to the following:

- ☐ A Death Certificate or "Letter of Administration/Testament" must accompany the request for records for a deceased individual.
- ☒ **Inadequate Authorization:** A signed authorization from the patient or his/her agent must accompany the request or be on file.
- ☐ **Inadequate Authorization:** Legal documents must be provided to confirm the legitimacy of the patient's agent and their relationship to the patient if the authorization is not signed by the patient themselves. This would apply to the legal guardian of a minor, unless it is the parent, and any power of attorney.
- ☐ **HIPAA-compliant authorization:** Patient authorization must contain statements of notification to the patient. One or more of the following statements is missing from your authorization.
 - ☐ Individual's right to revoke authorization
 - ☐ Description of how to revoke it
 - ☐ Potential for disclosed information to be re-disclosed by recipient
- ☐ **HIPAA-compliant request for medical records:** Requests for medical records must include all the information below. One or more of the following core elements is missing from your request.
 - ☐ Description of the information to be disclosed
 - ☐ Name of person/company authorized to make use of disclosure
 - ☐ Description of each purpose for the disclosure
 - ☐ Expiration date or event at which the request will expire
- ☐ **Special Authorization Required:** Chart contains information that requires a specific release to disclose such information. Please obtain an express authorization from the patient.
- ☐ The date of service for the records you have requested is not available or is not part of the patient's medical record.
- ☐ Other _____

(19)

EXHIBIT 19 of 22

MARCH 8, 2010 363

Dear ASSESSMENT + RESOURCE CENTER,

Hello, my name is Noel Gray #307590.

I am requesting a Complete Record of Minor
Case No 02-35498. This request is under the State
~~Freedom of Information Act S.C. Code Ann. § 30-4-10 through~~
§ 30-4-165 and the Privacy Act of 1974; Title 5 of the
U.S.C. Section 552 (a). I am seeking this information
within 30 days of this request.

Respectfully Requested
Noel Gray #307590
Noel Gray #307590
Murry #212
Broad River Corr. Inst.
4460 Broad River Rd.
Columbia, S.C.

29210

NIXIE 292 DE 1 00 03/21/10

RETURN TO SENDER
ATTACHED - NOT KNOWN
UNABLE TO FORWARD

EQ: 39210401250 *0554-00130-09-04

|||||

EXHIBIT 20 of 22

CC/FILE

(20)



UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

POST OFFICE BOX 835
CHARLESTON, SOUTH CAROLINA 29402

PATRICK MICHAEL DUFFY
UNITED STATES DISTRICT JUDGE

TELEPHONE (843) 579-1460
FAX (843) 579-1469

September 5, 2006

Mr. Noel Gray #307590
Mont. #193
Broad River Correctional Institution
4460 Broad River Road
Columbia, Sc 29210

Dear Mr. Gray:

I am in receipt of your letter dated August 31, 2006. Unfortunately, there is nothing that I can do with regard to your state sentence. I am only involved with your federal sentence which it appears you have completed. I regret I am unable to be of assistance.

Sincerely,

Patrick Michael Duffy

/cph

(p. 50)

EXHIBIT #43

(7)

1333
-GS-02-
104

RECEIVED

06 SEP -8 PM 2:31

UNITED STATES MARSHALS
COLUMBIA, S.C.
To whom

Sept. 9, 2006

To whom it may concern,

Hello, my name is Noel Gray #307590.

I'm writing you regarding a very serious issue.

On Sept. 13, 2002 the Government filed an Indictment on me, Criminal # 1:03-263 18 U.S.C. § 922(g)(1) - 18 U.S.C. § 924(a)(2), Possession of A Firearm by convicted Felon, Nov. 10, 2003 I was sentenced to 30 months by U.S. District Judge Patrick M. Duffy. On May 5, 2004 I Filed an I.A.D.A Interstate Agreement on Detainers Act On Sept. 1, 2005, Aiken Co. Sheriff's Office came to Lexington Federal Medical Center Lexington Ky. By this agreement my expiration date was Oct. 18, 2004. My attorney told me she filed an extension on this, which was an violation of the Constitutional amendments and of this agreement. I was not sentenced until Feb. 2, 2005, I was falsely prosecuted, slandered, convicted and Imprisoned. I have proof of all of this, "Paperwork," Plus I was sent to the South Carolina Dept. of Corrections while in Federal Custody. I broke Federal Law, I paid for it, So is it ok for the state to violate Federal Law and get away with it. I've wrote every body concerning this, Still no response, I need help. I have proof of these violations, And I have proof of my innocence. Please help me. I was given Life without Parole falsely. And can Prove it.

Federal Inmate Advocates, LLC

Post Office Box 655 ■ Fort Mill, SC 29716 ■ (803)448-3898

May 14, 2007

Mr. Noel Gray
SCDC #307590
B.R.C.I.
4460 Broad River Road
Columbia, SC 29210

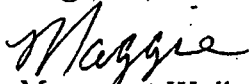
Dear Mr. Gray:

We are in receipt of your letter dated May 7, 2007 and regret the Innocence Project could not take your case.

After reading your letter the staff at FIA believes you have some very serious Sixth and Fourteenth Amendment issues. We believe we may be able to assist you but I must inform you that FIA is not a non-profit, pro bono firm as you may have believed. After a conference with our lead attorney it was determined that we will take your case for a fee of \$4750.00.

Please write and let us know if you are still interested in retaining FIA.

Regards,



Margaret Walker
Senior Paralegal &
Prison Issues Specialist

cc cc
1333
CS-02-1333
04

MET LINDA COMES DOR AUGUSTA GA. JULY 2001 AT MIKE WILLIAMS BIRTHDAY P.
MIKE WILLIAMS TOOK ME TO AIKEN S.C. TO LIVE WITH HIM AND HIS WIFE (2 DAYS)
MET LINDA THAT NIGHT. MET DAUGHTER "MINOR" AGE 13 "NEVER MENTIONED
HER"

NOV. 13 2001 ARRESTED FOR PROBATION VIOLATION AT 1078 MADISON AIKEN 1:45 AM
AT MIKE'S RESIDENCE 1078 MADISON AVE.

LINDA, Minor 9, MOM HOLT COMES TO VISIT ME AT OLD AIKEN DETENTION CENTER.
EXPIRE TO BRUNSWICK GA.

MIKE AND LINDA COMES TO VISIT ME IN JAIL BRUNSWICK GA.

03 20 02 MIKE + LINDA GETS LAWYER GEORGE W. BUSH IN AUGUSTA GA. 3,000.00
GETS ME OUT OF JAIL.

03 27 02 WENT TO DAVANNAH TO GEORGIA REGIONAL HOSPITAL FOR
GENERAL HEALTH EVALUATION.

WENT OUT WENT BACK TO AIKEN S.C. W/ TRAVEL PERMIT.

JULY 27 - 2002 ARRESTED FOR SIMPLE LARCENY.

JULY 30 2002 LINDA, Minor 1, MOM HOLT GETS ME OUT OF JAIL NEW
DETENTION CENTER 1600.00 FINE. PAID. (NEW ELLINGTON)

BACK AND FORTH TO BRUNSWICK GA. 10th EVERY MONTH TO SEE PROBATION.

WENT TO JULY 6 ABOUT 6 DAYS WENT TO MT VERNON ILL. TO SEE MY MOM. COUSIN

W/ LINDA, KRISTINA, MICHAEL WILLIAMS SR. 618 242 5956 RALPH BUCHANAN

SEP 13 2002 TIM RABOES AND HENRY RAY THORNTON PUPP POLICE DEPT

WENT TO NEW ELLINGTON MIDDLE SCHOOL TALKS TO KRISTINA ABOUT A C 3

WENT TO THE MEDICAL CITY PICK. AROUND 3:00 PM.

3:30 KRISTINA TELLS ME ABOUT IT.

W/ TIM RABOES AND HENRY RAY COMES TO OUR RESIDENCE

W/ CEDARST TALKS TO KRISTINA + MOM "LINDA" ABOUT ME MESSING

W/ KRISTINA, CHARGE OR CHARGE. ARE DROPPED BY 2 IT TAKES 10 MIN

W/ HENRY RAY DEPT. 10 MIN. 10 MIN. 10 MIN.

W/ LINDA 10 MIN. 10 MIN. 10 MIN.

OLD BARWELL RD.

10 MINUTES LATER CAME BACK, THIS TIME INVESTIGATING A BURGLARY.
I SAW THEM A 71 30 CAL. RIFLE.

SAME DAY I LEAVE.

STAYED IN WOODS BESIDE HOT SPOT. Placed 1 quilt + 1 blanket INSIDE TIRE
COVERING IT IN A RED TRUCK BED.
BEEN TO VICTIM SERVICES WITH LINDA ON HUSBAND GREG BROWN
ON A C.D.V. SHE LIVED WITH HIM DURING MY JAIL TIME IN
BRUNSWICK GA. HE HAS A RESTRAINING ORDER ON HIM, SHE VIOLATED
IT. WENT TO AGUSTA GA. SEPT 13th 2002 TO WORK
~~FEARFUL CREDITATION~~ FIRST CITIZENS
CASHED A WORK CHECK IN WILKINSON AT BANK NEXT TO COUNTRY STORE &
PHARMACY. NEVER SAW LINDA 24th.

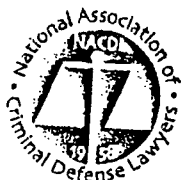
WENT TO CLARK'S HILL CAMPING LINDA, MIMI, ME, MIKE WILLIAMS, DEEKT WILLI
GREG BROWN + LINDA'S DAD HAYWARD HOLT DRAIVES ID GAMES ON 17th THE
13th SEPT.

WENT TO NIKKE DEACH, APPACHE CAMP GROUND. CAMPING. 2002 JULY
LINDA, MIMI, MIKE, DEEKT, ME, 4 DAYS MIKE JR.
CASHED CHECK FROM WORK SEPT. 13th 2002 AT WILKINSON ~~FIRST CITIZENS BANK~~, I WORKED
IN AGUSTA PAINTING. NEVER SAW LINDA. MAN NAMED EUGENE OLD MAN
WITH CRUTCHES DRIVES RED 4 DOOR STATION WAGON. LIVES OFF OF OLD BARWELL RD

"WITNESS" Sept 13th 2002 around 6:00 walking down HWY 278.
Pass the Gas station where Steve Douglas Auto repair lives. FAIRLY GOOD
VIEW OF HILL, 2 CAR MON INSIDE, gave me a drink of water.
Left then walked to a little building with a big church behind
it. Man and woman picked me up and took me to work
at work at the time shock at Jackson. Motor Speedway.
This was cashed my check. Guy from Texas long hair, belly,
dark skin. Dark hair. Steve Douglas. Dipped chipmunk...

04 GS-02-1333-04

04 GS-02-1333-04



NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

June 6, 2007

Dear Sir or Madam:

We have received your letter asking for legal assistance or advice. Unfortunately, our organization does not have staff who are able to represent or assist individuals with their cases, even on a *pro bono* basis. We are also unable to make referrals to individual attorneys.

The National Association of Criminal Defense Lawyers is a trade association and, as such, our primary function is to serve our members across the country. In addition to this, we lobby Congress for fair crime legislation, work for systemic improvements in the quality of representation for indigent defendants, and educate the media and the public about criminal justice issues.

Perhaps other organizations are in a better position to be of assistance. We appreciate the time you took in writing to us and are sorry we are unable to help you. We wish you the very best.

Sincerely,

Calli L. Schiller
National Affairs Assistant

Letter sent to abused named individuals concerning Kelly P. Brown
Esq. Public Defender who violated my Constitutional Rights to a Fair
Trial. She is a member of this Association.

(ORIGINAL TRIAL NOTES
TO Bennie Williams Investigator)

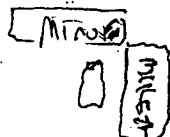
I moved in 6 Days after I met Linda,
~~Linda moved in the same day Mike got~~
~~me from Augusta.~~

I left Nov. 12th after the C.S.C. Dropped
and Rifle taken + Probation violation.

Officer Dleurns never existed
Heub RAY TIM RANDELL

Her mom called me teddy Bear

Minor + POOH BEAR



2' Apart

First indication of Having BEEN Ejaculated inside

04 -GS-02- 1333

04 -GS-02- 1334

TIM RANDALL, HEWY RAY, INVESTIGATED THE
C.S.C. THAT WAS DROPPED AND THEN WENT TO
MIKE WILLIAMS HOUSE, THEY CAME BACK INVESTIGATING
ME TO A CONNECTION OF A THEFT.

LINDA TOLD HEWY RAY THAT NOEL HAS NEVER
TOUCHED MY DAUGHTER, SHE TELLS ME EVERYTHING.
HE WOULD NEVER DO ANYTHING TO HURT ME OR MY
DAUGHTER. GUIDANCE COUNSELOR WAS A MAN
GREY HAIR WITH BEARD.

HE NEVER WAS AT THE HOUSE SEPT. 12TH.
I DON'T KNOW WHO THIS DUDE IS.

File For Brady Rule 5
Court Transcripts

04 GS02-1333

04 GS02-1334

NEW BEGINNING
GREENLEAF CENTER, INC.

VALDOSTA, GEORGIA

PSYCHIATRIC EVALUATION

CONFIDENTIAL AND PRIVILEGED
 FOR PROFESSIONAL PURPOSES ONLY
 NOT FOR PUBLICATION - NOT TO BE USED
 FOR PATIENT'S HISTORY

GRAY, Noel (Junior)

August 21, 1986

Hospital #00939

Medrano

Unit: C & A

Noel (Junior, as he likes to be called), was seen for Psychiatric Evaluation along with his court worker, Mr. Terry Smith. Junior was referred by the court because of continuous behavior problems which have warranted several hospitalizations, a serious suicidal attempt, and Junior repeatedly running away from home. Reportedly, he has gotten along in the different settings away from home, but his behavior deteriorates markedly at home and he has also presented serious disruptive behavior in school.

I reviewed the material contained in Junior's folder and I noted that a previous Psychological Examination places him in the high level of intellectual functioning, with the performance score being higher than the verbal one. Evidence of a possible mild learning disorder could be proposed. This year he has been at the regional center in Savannah twice. He was placed on medications such as Navane and Mellaril to control his erratic and unpredictable behavior. Perhaps the most serious problem is a rather poor family situation, with Junior not being able to get along with the parents, particularly with the mother, with subsequent parental inability to control his behavior. Mr. Smith indicated that the more time he spends with Junior, the more impressed he is with his degree of awareness and ability to express himself.

In the Psychiatric Examination, Junior presented himself as an overweight adolescent with black, short hair, and a bland facial expression. As soon as he was approached, however, I noted an eagerness to please and a simple sense of humor. He had good eye contact. The mood revealed feelings of helplessness and a sense of futility toward life. Sensorium was intact. The thought process seemed to have a concrete quality and verbally he appeared somewhat limited. The thought content revolved around the problems he has had at home with the father. He explained that what upsets him the most is the fact that the father is an alcoholic and frequently hits the mother. It is on these occasions when he chooses to run away from home, as he is unable to cope with such emotional stress. No evidence of serious thinking disorder was elicited.

The patient expressed very negative feelings about school. He related that in the last year he was absent from school most of the time. Regardless of the efforts of his mother and the school people, he always managed to leave the school grounds and return home, where he would sleep most of the day. He doesn't think that he needs to finish school and he is interested in getting a job instead. He also indicated to have problems with peers. Concerning his experience in the regional hospital, he said to have had problems getting along with peers, and being bored most of the time for lack of appropriate activities. He admitted to have had a lot of problems with the mother, in that he has been most negativistic with her, although he doesn't know exactly why. Interestingly, he appeared quite pleased with coming to the Center, manifested by continuous questions about activities and comments about liking to stay at the Center for a long time.

GS-02-1334

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NEW BEGINNING
GREENLEAF CENTER, INC.

VALDOSTA, GEORGIA

PSYCHIATRIC EVALUATION

GRAY, Noel (Junior)

Page 2

Hospital #00939

Medrano

Unit: C & A

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AGAINST PATIENT'S INTEREST

In summary, Junior seems to present the characteristics of a partially neglected child living in a rather unstable family environment. Indications of attention deficit disorder were noted, particularly in terms of poor concentration, distractability, low frustration tolerance, impulsive behavior, and mild learning problems. There is a combination of a rather primitive personality with indications of strong inadequate feelings, low self-image, and difficulty expressing appropriately hostile aggressive impulses. He presented a tendency to distort the truth, which was interpreted as a coping maneuver to deal with a rather disturbing and empty reality. Hospitalization was recommended because of an apparent deterioration of the overall function, inability to allow the parents to control him, and a strong possibility that he should be separated from the family if he is going to survive emotionally.

Diagnosis: Adjustment disorder with mixed emotional and conduct features.

Secondary diagnosis: Attention deficit disorder with mild hyperactivity.

Tentative duration of treatment: About four weeks.

Disposition: Patient should be promptly integrated into the Level II of the Adolescent Program. Particular emphasis should be made concerning compliance with the Unit rules and policies. He will be given Nursing, Activities, Educational, and Nutritional Assessments. Richard Powers, PhD, will be doing the Psychological Evaluation. The first phase of his treatment will concern his behavior and we might consider use of medication to enhance organizational thinking and academic performance. We will keep in touch regularly with Mr. Terry Smith, particularly to implement an appropriate discharge planning period.



Peter P. Medrano, M.D.

D-08/25/86

T-08/26/86

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GREENLEAF CENTER, INC.
A REGIONAL PSYCHIATRIC AND CHEMICAL DEPENDENCY HOSPITAL
200 PREVIEW DRIVE • VALDOSTA, GEORGIA 31602 • (918) 341-1111
ADMISSION HISTORY AND PHYSICAL

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GRN, Noel

Adm. 8/21/86

Hosp. #00939

Light

Unit: Adolescent

This is a 16-year-old caucasian male was admitted to Greenleaf Center 8/21/86 under the service of Dr. Medrano. The following history is obtained from the patient.

He states he was admitted to Greenleaf Center because of family problems. He states he is having trouble getting along with his step-father, because of these problems he was admitted here for counseling.

He states he has had several problems in the past which include admissions to psychiatric institutions in Chicago and at the Georgia Regional Center. The Chicago admission was about one year ago and the Georgia Regional one approximately 5 or 6 months ago. He was also admitted to a hospital in Brunswick some 2 or 3 months ago for management of an overdose of Mellaril. He states that the overdose occurred because he was sleep walking and was unaware that he had ingested Mellaril which was his present time medication at that point. Since then he states he has not taken any particular medications.

Noel indicates that he has been treated in-center at a correctional institute for about one year for management of drug abuse and breaking and entering. That therapy apparently occurred more than one year ago.

Presently, he states that from a physical standpoint he is feeling fairly well. He has had some discomfort in his left chest area when he coughs or sneezes. That has been present for about 2 weeks. There is no sputum when he coughs. He states that he has some constant discomfort in his left eye which he attributes to a lazy left eye. He states that diagnosis was established by his father who is an eye specialist. He has worn corrective lenses for many years but not for the past 2 years. He states 2 years ago he was in a fist fight, his glasses were broken and he has not had them replaced.

Otherwise he states he has been quite healthy in the past. There is a history of some recent trauma to his right hand which occurred when he was upset with his father, struck a plate and lacerated the hand.

He has had no previous operations. No previous accidents. No seizures.

ALLERGIES: None known.

PRESENT TIME MEDICATIONS: None.

PERSONAL HISTORY: He stopped going to school in grade 9. His favorite activity is riding a motorbike. His aspirations are to secure a job and work either as a mechanic, to do roofing, or to cut wood. He states that he does not ingest alcoholics now and does not take drugs. In the past, he used marijuana, LSD, and PCP. He has smoked cigarettes for 10 years and smokes approximately 20 cigarettes per day. He has had a steady girlfriend for 3 years.

His mother is age 35. She is apparently in good health. His present time stepdad number 2 is said to have a pacemaker and a wire device holding his knee together. Stepdad number 1 apparently is in good health. His biological father died about one year ago. His mother and father were divorced about 5 or 6 years ago. It is believed that his father died with myocardial infarction. He has a 14-year-old male sibling and a 9-year-old female sibling who are in good health. He states that his present

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VALDOSTA, GEORGIA

DISCHARGE SUMMARY

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AGAINST PATIENT'S INTEREST

GRAY, Noel

Admitted: 08/21/86
Discharged: 09/25/86

Hospital #00939

Medano

Unit: C & A

Noel, "Junior", as he likes to be called, was referred by the Ware County Judicial Circuit for inpatient treatment because of continued behavioral problems which have warranted several hospitalizations in the past, including a serious suicidal attempt, repeatedly running away from home, and extreme dislike for school.

In the initial assessment, Junior presented characteristics of a partially neglected child being brought up in an unstable family environment. Indications of an attention deficit disorder were noted, particularly in terms of poor concentration, distractibility, low frustration tolerance, impulsive behavior, and mild learning problems. A combination of a primitive personality with indications of strong inadequate feelings, a low self-image, and difficulty in expressing appropriately his hostile and aggressive impulses were noted. He also presented a tendency to distort the truth when dealing with what appeared to be to him a disturbing and distressing reality.

In the Psychiatric Examination, Junior presented himself as an overweight, friendly, eager-to-please adolescent with a simple sense of humor. He had good eye contact. The mood revealed feelings of helplessness and a sense of futility toward life. The thought process seemed to have a concrete quality and he appeared to be verbally somewhat limited. His affect was somewhat bland, suggesting an institutionalization syndrome. The thought content revolved around the problems he has had at home with the step-father. He explained that what upset him the most is that the step-father, who is an alcoholic, is constantly physically abusing the mother. It is on these occasions when he chooses to run away from home, as he is unable to cope with such emotional stress. Negative feelings about school were also expressed.

The course of hospitalization was characterized by over-activity, generally diffused behavior, and a strong tendency to tell fantastic stories. The behavior could be best described as being primitive in that he lacked social refinement and an apparent lack of exposure to activities such as eating in restaurants, where a degree of sophistication is expected. Often he did make intentional vulgar remarks in front of female staff. Much immaturity was observed at times, accompanied by marked moodiness. However, when handled with firmness and consistency, he usually complied. We had several contacts with the court and a meeting with the different agencies involved in the management of his case. Although the plans initially were to keep Junior in the hospital for four weeks, an extension was requested to work on the discharge plans, which included his return to school and living away from home.

The methods of treatment were individual and group therapies along with attendance to the school program, therapeutic activities, and life skills classes. A complete Physical Examination done by Gerald S. Light, M.D., Pediatrician, revealed Junior to be somewhat obese but otherwise in good physical health. His vision is poor and he is in need of corrective lenses. He had broken his lenses some time ago in a fight and the need to replace them was quite evident. He was seen for a Psychological Evaluation by Richard Powers, Ph.D. On the intelligence test, Junior scored

VALDOSTA, GEORGIA

DISCHARGE SUMMARY

GRAY, Noel

Page 2

Hospital #00939

Medrano

Unit: C & A

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WITHOUT PATIENT'S CONSENT

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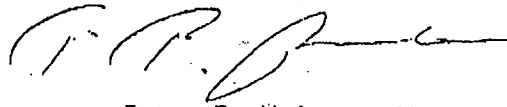
on the borderline of intellectual functioning. The Bender-Gestalt test was performed in a very sloppy fashion. In the personality test, Dr. Powers saw him with a potential to psychological decompensation and acting out disturbance. He found Junior having problems with trust and with conflicts of hostility. He has difficulty expressing his emotions in adaptive fashion. He is over-anxious, nervous, and emotionally labile.

The overall therapeutic approach was reality-oriented; that is, making Junior aware of his inappropriate behavior and providing support when he attempted to correct it. His tendency to tell fantastic stories was dealt with by confrontation and simple interpretation. In activity therapy, he was given an opportunity to succeed in completing projects, especially art work, for which he seemed to have some talent. In school, his energies were redirected along the lines of organization and self-motivation. Activities away from the Center were encouraged to increase appropriate social experiences. Medication in the form of Ritalin, 5 mg twice a day, was administered to handle the driven and diffused behavior with reported good results.

The prognosis in this case is guarded to fair, considering the nature of Junior's problems and the length of time they have been present, plus the fact that he doesn't have a good family to support him. The court was made aware that he would do well in a place where someone, particularly an adult, would take an interest in him and spend some time doing things with him. Returning to school is going to be difficult, but it can be accomplished if emphasis is placed on obtaining small successful experiences rather than expecting him to function at grade level. He is going to need follow-up therapy, which will be provided by the local Mental Health Clinic. He was discharged to Mr. Terry Smith, a court worker, who took him to a foster home. A prescription for Ritalin, 5 mg to be given twice daily, was dispensed.

Admitting diagnosis: Conduct disorder. Socialized, aggressive.

Discharge diagnosis: Adjustment disorder mixed with emotional and behavioral disturbances.



Peter P. Medrano, M.D.

D-10/10/86

T-10/13/86

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Conditions of Probation and Supervised Release

UNITED STATES DISTRICT COURT

FOR THE

District of South Carolina

Name: NOEL GRAY
Address: 1022 Green Up Street
Covington, Kentucky 41011

Docket No.: 1:03-263-04

Under the terms of this sentence, the defendant has been placed on supervised release by the Honorable Patrick Michel Duffy, United States District Judge for the District of South Carolina. The defendant's term of supervision is for a period of three (3) commencing upon release from the Bureau of Prisons.

While on supervised release, the defendant shall not commit another federal, state or local crime. The defendant shall not illegally possess a controlled substance.

If the judgment imposed a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervision in accordance with any Schedule of Payments set forth in the Criminal Monetary Penalties sheet of the judgment. In any case, the defendant should cooperate with the probation officer in meeting any financial obligations.

The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons (supervised release only).

☐ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921 (Check if applicable.)

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

It is the order of the Court that the defendant shall comply with the following standard conditions:

- (1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
- (2) The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- (3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- (4) The defendant shall support his or her dependants and meet other family responsibilities;

(A4)

GS-02-01-034

GS-02-1333

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UNITED STATES PROBATION OFFICE

1835 ASSEMBLY STREET, ROOM 611

COLUMBIA, SC 29201-2445

OFFICIAL BUSINESS

NOEL GRAY JR.

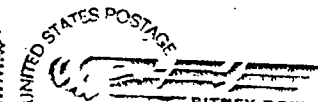
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MAILROOM

MR. RATTFORD
CASEWORKER MURRAY

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UNITED STATES PROBATION OFFICE
DISTRICT OF SOUTH CAROLINA

*Professionalism is the Standard!
Excellence is the Goal!*

DICKIE BRUNSON
CHIEF U.S. PROBATION OFFICER

REPLY TO:

Columbia Probation Office
Strom Thurmond Federal Building
1835 Assembly St., Rm. 611
Columbia, SC 29201-2445
Tel: 803-253-3310
Fax: 803-765-5420

September 20, 2011

Robert M. Stevenson III, Warden
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Noel Eugene Gray, Jr.
SCDC#00307590

Dear Warden Stevenson:

The above named inmate was sentenced by the Honorable Patrick Michael Duffy on November 5, 2003, to 30 months custody in the United States Bureau of Prisons to be followed by a 3 year term of supervised release for Unlawful Possession of Firearms.

The purpose of this correspondence is to inform you that inmate Gray has a 3 year term of supervised release following his release from his current state sentence. Upon release, he is instructed to contact the U. S. Probation Office, 1835 Assembly Street, Room 611, Columbia, SC 29201, telephone number 803-253-3310, within 72 hours of release from state custody. Failure to follow these instructions will result in the issuance of a warrant for Failure to Report.

We are providing a copy of this correspondence to inmate Gray and would respectfully request that you explain to Gray the importance of complying with these instructions.

If you have any questions, please contact me at 803 253-3848.

Sincerely,

Todd E. Salley Amw

Todd E. Salley
Supervising U. S. Probation Officer

Received 12-12-11/can...
Cc: Noel Eugene Gray, Jr.

04 GS-02-1335



The Supreme Court of South Carolina
OFFICE OF THE DISCIPLINARY COUNSEL

Henry B. Richardson, Jr.
Disciplinary Counsel

Susan M. Johnston
Deputy Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

May 4, 2007

PERSONAL AND CONFIDENTIAL

Mr. Noel Gray #307590
Broad Correctional Institution
4460 Broad River Road
Columbia, SC 29210

RE: Lawyer: Everett Keith Chandler, Esquire
Case Number: 07-DE-L-0478

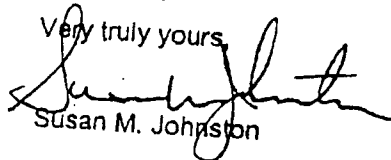
Dear Mr. Gray:

This office is in receipt of your complaint filed in connection with the above referenced matter. The authority of this office and the jurisdiction of the Commission on Lawyer Conduct concerning complaints against lawyers are limited to issues of whether a lawyer has committed misconduct or is incapacitated within the guidelines of the Rules for Lawyer Disciplinary Enforcement (RLDE), Rule 413, South Carolina Appellate Court Rules, promulgated by the Supreme Court of South Carolina.

Matters relating solely to allegations of ineffectiveness of counsel (absent information indicating lawyer misconduct as defined in Rule (7)(a) of RLDE) are not within the jurisdiction of this office. Instead such matters relating to effectiveness of counsel must be addressed in a timely manner through normal appeal procedures or through post conviction relief proceedings in an appropriate court. Such matters are not addressed by this office or the Commission on Lawyer Conduct.

We find that the information in your complaint involves matters that would not constitute misconduct or incapacity under these rules even if true and, as such, are not within the jurisdiction of this office or the Commission on Lawyer Conduct. For this reason, your complaint is dismissed pursuant to the provisions of Rule 19(a) of Rule 413.

Very truly yours,


Susan M. Johnston

SMJ/clg

EXHIBIT 25

2004-GS-02-11227-11221



The Supreme Court of South Carolina
OFFICE OF THE DISCIPLINARY COUNSEL

Henry B. Richardson, Jr.
 Disciplinary Counsel

Susan M. Johnston
 Deputy Disciplinary Counsel

Post Office Box 12159
 Columbia, South Carolina 29211

May 4, 2007

PERSONAL AND CONFIDENTIAL

Mr. Noel Gray #307590
 Broad Correctional Institution
 4460 Broad River Road
 Columbia, SC 29210

RE: Lawyer: Barbara R. Morgan, Esquire
 Case Number: 07-DE-L-0477

Dear Mr. Gray:

This office is in receipt of your complaint filed in connection with the above referenced matter. The authority of this office and the jurisdiction of the Commission on Lawyer Conduct concerning complaints against lawyers are limited to issues of whether a lawyer has committed misconduct or is incapacitated within the guidelines of the Rules for Lawyer Disciplinary Enforcement (RLDE), Rule 413, South Carolina Appellate Court Rules, promulgated by the Supreme Court of South Carolina.

Matters relating solely to allegations of ineffectiveness of counsel (absent information indicating lawyer misconduct as defined in Rule (7)(a) of RLDE) are not within the jurisdiction of this office. Instead such matters relating to effectiveness of counsel must be addressed in a timely manner through normal appeal procedures or through post conviction relief proceedings in an appropriate court. Such matters are not addressed by this office or the Commission on Lawyer Conduct.

We find that the information in your complaint involves matters that would not constitute misconduct or incapacity under these rules even if true and, as such, are not within the jurisdiction of this office or the Commission on Lawyer Conduct. For this reason, your complaint is dismissed pursuant to the provisions of Rule 19(a) of Rule 413.

Very truly yours,

Susan M. Johnston
 Susan M. Johnston

SMJ/clg

EXHIBIT # 25-1

2004-6502-01334 01334

Page #2

BRADLEY L. BONI
 Attorney at Law
 208 Newberry Street, NW
 Aiken, South Carolina 29801

Mailing Address
 Post Office Box 652
 Aiken, South Carolina 29802

Telephone: (803) 644-4460
 Fax: (803) 644-4469

December 18, 2008

Noel Gray #307590
 Broad River Correctional Institute
 4460 Broad River Road
 Columbia, SC 29210

Re: Case Number 2008-CP-02-734

Dear Mr. Gray:

- 1) I am in receipt of your letters dated May 6, 2008, and October 20, 2008, as well as your
- 2) Christmas card. Thank you for the thoughtful card, and I must apologize for having not
- 3) written sooner. In your first letter you asked how long I've been practicing law and if I
- 4) have ever done a C.S.C. case. To answer, I have been practicing 8 years, and I have
- 5) never tried a C.S.C. case to which I'm assuming you mean a Criminal Sexual Conduct
- 6) case. I am not a criminal nor trial lawyer. My practice is limited to real estate and
- 7) probate. As soon as I can come down to Columbia, I will do so in order that we may
- 8) meet in person. In the meantime, please do not hesitate to contact me in the future.

With Best Regards,

/s/

Bradley L. Boni

(EX-017716)

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2004-GS-02-01333 + 01334

R. LADA

Westlaw.

260 S.E.2d 181
274 S.C. 4, 260 S.E.2d 181
(Cite as: 274 S.C. 4, 260 S.E.2d 181)

Page 1

C

Supreme Court of South Carolina.

The STATE, Respondent,

v.

Hubert P. HOLBROOK and Russell Stanley
Holbrook, Appellants.

No. 21082.

Nov. 13, 1979.

* Defendants were convicted before the General Sessions Court, Greenville County, John T. Gentry, Special Judge, of housebreaking and grand larceny, and they appealed. The Supreme Court, Lewis, C. J., held that where at no time during 124 days of incarceration in jurisdiction prior to trial did State move for continuance nor did legal ground appear to excuse its failure to so move, defendants' motion for dismissal of charges with prejudice for lack of speedy trial within time limitations of the Interstate Agreement on Detainers Act should have been granted.

Reversed and remanded with directions.

West Headnotes

[1] Extradition and Detainers ⇨ 60
166k60 Most Cited Cases

Where at no time during 124 days of defendants' incarceration in jurisdiction prior to trial date did State move for continuance nor did legal ground appear to excuse its failure to so move, defendants were entitled to dismissal of charges with prejudice for lack of speedy trial within time limitations of the Interstate Agreement on Detainers Act, pursuant to which their return to jurisdiction had been acquired by State. Code 1976, §§ 17-11-10 et seq., 17-11-10, arts. IV(c), V(c).

[2] Extradition and Detainers ⇨ 60
166k60 Most Cited Cases

Speedy trial 120-day time limitation imposed under the Interstate Agreement on Detainers Act is mandatory and thus required dismissal of charges

against defendants with prejudice where at no time during 124 days of their incarceration in jurisdiction did State move for continuance and where no legal ground appeared to excuse its failure to so move. Code 1976, § 17-11-10, art. V(c).
**181 *5 H. F. Partee and Jesse A. McCall, Jr., Greenville, for appellants.

Atty. Gen. Daniel R. McLeod and Asst. Attys. Gen. Brian P. Gibbes and Sally G. Young, Columbia, and Sol. William W. Wilkins, Jr., Greenville, for respondent.

LEWIS, Chief Justice:

Appellants, convicted in Greenville County of housebreaking and grand larceny, appeal on the ground, among others, that the lower court erred in denying their motion to dismiss the charges against them for lack of a speedy trial within the time limitations of the Interstate Agreement on Detainers Act, S.C. Code (1976), Section 17-11-10, et seq. We reverse.

[1] During 1977, the appellants were arrested and incarcerated in Rome, Georgia. Pursuant to the terms of the Interstate **182 Agreement on Detainers Act, the State acquired their return to this jurisdiction to stand trial on the aforementioned charges. On June 14, 1978, they were placed in the Greenville County Detention Center, and on September 21, 1978 they indicated to the solicitor that they wished to plead guilty. However, on the same day, appellant Hubert Holbrook elected not to plead and the State subsequently withdrew its offer to allow the other appellant to plead guilty. Their case was called for trial on October 16, 1978. At no time, during the 124 days of incarceration in this jurisdiction prior to trial, did the State make a motion for continuance; nor does legal ground appear to excuse the failure to so move. The appellants made a motion for dismissal of charges with prejudice at the start of the trial, which the trial judge denied. Their motion should have been granted.

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2004-6502-01333-01334

260 S.E.2d 181
 274 S.C. 4, 260 S.E.2d 181
 (Cite as: 274 S.C. 4, 260 S.E.2d 181)

The relevant sections of the Interstate Agreement on Detainers Act, Section 17-11-10, Supra, provides as follows:

IV(c) In respect of any proceedings made possible by this Article, trial shall be commenced within one hundred *6 twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

V(c) . . . in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

[2] We have previously considered, in State v. Patterson et al., S.C., 256 S.E.2d 417 and State v. Allen, 269 S.C. 233, 237 S.E.2d 64, the nature of the time constraints imposed by the Act. In accord with these prior decisions, the 120 day time limitation imposed under Article IV(c) is mandatory and required dismissal of the charges against appellants with prejudice.

Because of our disposition of this matter, we need not consider the appellants' other assignment of error.

Accordingly, these cases are remanded and the lower court is directed to enter orders of dismissal with prejudice concerning both appellants.

LITTLEJOHN, NESS, RHODES and GREGORY, JJ., concur.

274 S.C. 4, 260 S.E.2d 181

END OF DOCUMENT

2004-06-02-01333 + 01334

91

January 6,

Dear Madam Clerk,
 Enclosed is my Motion to Address
 all Issues. Please Clock Stamp and Return
 (1) Copy back to me. Please

In Kind regard
 I Remain.
 Noel Gray # 302 590
 Noel Gray
 Broad River Corr. Inst.
 4460 Broad River Rd
 Columbia, S.C.
 29210

Mr. Gray - Since you have an
 appointed attorney, all pleadings
 must be filed by him. Please
 forward any and all pleadings
 to him.

Thank you.
 Deputy Clerk

08-CP-02 - 734

SENT TO COUNSEL JAN. 15, 2009

(EXHIBIT # ~~2117~~)

PER COUNSEL IN CLEAR VIOLATION OF MARTINEZ V. RYAN, S.C. WL 912950
 U.S. Supreme Court held that PCR counsel can be ineffective where petitioner
 is appointed PCR counsel (71.1(d) S.C.R.C.P.) for the initial collateral review
 for raising Ineffective Assistance claims for the first instance and
 appointed PCR counsel fails to raise any meritorious claims.

(F6)

2008-6502-01332 401334

08-CP-02-734

STATE OF SOUTH CAROLINA
COUNTY OF AIKENIN THE COMMON PLEAS COURT
FIRST JUDICIAL CIRCUITNOEL GRAY #307590
AppellantCase No. 04-GS-02-1333

and

Case No. 04-GS-02-1334

vs.

MOTION TO ADDRESS

STATE OF SOUTH CAROLINA
Respondent

ALL ISSUES

Now comes the Applicant Noel Gray #307590, by and through his Court Appointed Attorney, who ask this Honorable Court to require the Attorneys involved in this Post Conviction Relief Action and any Amendment thereof, to be Meticulous in the preparation of any "Order" prepared in this matter.

Specifically, the Appellant request that each and every issue raised within the Post Conviction Relief Application and any Amendment thereof, at the hearing, to be addressed in the "Order" of the Court to be issued at the conclusion of the Evidentiary Hearing in this matter.

The Applicant request this Motion pursuant to S.C. Code § 17-27-80, citing: Pruitt v. State, 423 S.E. 2d 123 (1992); Bryon v. State, 493 S.E. 2d 500 (1997).

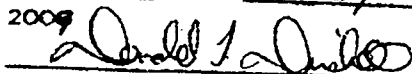
Wherefore Applicant request the Motion be "Granted"

Respectfully Submitted,

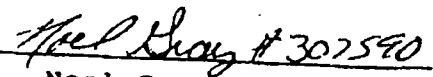
SWORN TO AND SUBSCRIBED BEFORE ME

THIS 6TH DAY OF January

2009



NOTARY PUBLIC

STATE OF SOUTH CAROLINA My Commission Expires
MY COMMISSION EXPIRES August 25, 2015

Noel Gray #307590

B.R.C.-I. Murray B-224

4460 Broad River Road

Columbia, S.C. 29210

(EXHIBIT # ~~279~~)

04-05-02-1333 + 1334

Filed 4-18-2008

STATE OF SOUTH CAROLINA)

In the Court of Common Pleas)

County of AIKEN)

Noel Gray # 307590)

Full name and prison number, if any, of applicant.)

v.)

The State of)

Name of Respondent)

South Carolina)

CCCP & G.A. Aiken County

Clerk of Court

Deputy Clerk

Trial Judge

Trial Atty.

Court Reporter

Sec. P.C. Petitioner

Solicitor

APPLICATION FOR POST-CONVICTION RELIEF

POST-CONVICTION RELIEF

I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

APR 18 2008

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 it clear to which question any such continued answer refers.

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

If the applicant 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 applicant was convicted.

- Place of detention Broad River Corr. Inst. 4460 Broad River Rd.
Columbia, S.C. 29210
- Name and location of Court which imposed sentence Second Judicial Circuit Court
Aiken County Aiken, S.C. 29802
- The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - 2004-GS-02-1333
 - 2004-GS-02-1334
 -
- The date upon which sentence was imposed and the terms of the sentence:
 - February 2, 2005 Life Without Parole
 -
 -

EXHIBIT # 27

2004-GS-02-01333 + 01334

~~CONFIDENTIAL~~

5. 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 _____

6. Did you appeal from the judgment of conviction or the imposition of sentence? yes

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. S.C. Court of Appeals
- ii. _____
- iii. _____

(b) the result in each such Court to which you appealed:

- i. Appeal Dismissed
- ii. _____
- iii. _____

(c) the date of each such result:

- i. January 11, 2008
- ii. _____
- iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. unpublished Opinion No. 2008-4P-040
- ii. _____
- iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) _____
- (b) _____
- (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Violation of Federal Interstate Agreement on Detainers Act.
- (b) Ineffective Assistance of Trial Counsel
- (c) Subject Matter Jurisdiction

25389-11334

EXHIBIT # ~~CONFIDENTIAL~~

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10. State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) See Attached Sheet (5)

(b) _____

(c) _____

11. 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 petitions in State or Federal Courts for habeas corpus or post-conviction relief?

No(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7) No

(d) any other petitions, motions or applications in this or any other Court?

No

12. If you answered "yes" to any part of (11), 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. _____

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EXHIBIT # ~~CONFIDENTIAL~~

~~EXHIBIT # 20~~

(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. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? No

14. If you answered "yes" to (13), 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. _____

15. If any ground set forth in (9) 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) Direct Appeal isn't the Proper venue for Ineffective Assistance of
- (b) Trail / Appellate Counsel Claims
- (c) _____

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

- (a) your arraignment and plea? No
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
Yes
- (e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? Pro-Se

EXHIBIT #

7204-0502-01333 + 01334

~~EXHIBIT 30~~

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Eleanor Duffy Cleary (Appeal) Office of Appellate Defense Columbia, SC.
- ii. Kelly Perkins Brown Aiken Public Defenders Office
- iii. _____

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

- i. Direct Appeal
- ii. Trial Counsel
- iii. _____

18. State clearly the relief you seek in filing this application.

Vacation of Sentence and Conviction

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

No

2004-65.D2- Q1333 + 01334

EXHIBIT #

~~EXHIBIT # 306~~

STATE OF SOUTH CAROLINA)
COUNTY OF Aiken)

VERIFICATION

I, Gray, Noel # 307590, 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.

Noel Gray #307590

Sworn to and subscribed before me

This 15th day of April, 2008

[Signature] L.S.

Notary Public for South Carolina My Commission Expires
My Commission Expires August 25, 2015

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

I, Gray, Noel # 307590, 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 or 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 proceeding or give security therefor.

Noel Gray #307590
Applicant

Sworn to and subscribed before me

This 15th day of April, 2008

[Signature] L.S.

Notary Public for South Carolina My Commission Expires
My Commission Expires: August 25, 2015

2004-65-02-01333 + 01334

~~EXHIBIT # 306~~
EXHIBIT # ~~306~~

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The Honorable Liz Godard
 Clerk of Court for the Second-
 Judicial Circuit.
 County of Aiken

RE. The State of South Carolina
 v.

Noel Gray #09632-032

S.C.O.C.#307590

- Defendant -

- Motion to Vacate Sentence and Conviction -

- Defendants Copy of Motion -

Pro-Se / Post Conviction Relief

Defendant also sent copies to the U.S. Bureau of Prisons 'Federal'
Atlanta and Lexington, KY. Innocence Project, New York, NY.,
48 hours C.B.S. New York, NY. and U.S. Dep. of Justice Washington D.C.

2004-6502-0333 + 01334

EXHIBIT # 27-1

COPY
 ORIGINAL FILED

APR 13 2008
 Aiken County
 CLERK OF COURT

EXHIBIT #

The Honorable Liz Godard

P.O. Box 583

Aiken, South Carolina 29802

RE: The State v. Noel Gray #09632-032/307590
Motion to vacate Sentence and Conviction.

Dear Mrs. Godard,

Please find enclosed two (2) copies of Defendants Motion to vacate Sentence and Conviction for filing in the above-referenced Case.

The defendant is respectfully requesting you to please send a Stamped / Filed copy back.

However, as an officer of the court, if you feel other copies need to be served in this matter, please let me know in Summary. I just want to make sure that all parties are served.

Also, the defendant submits that he is indigent.

Respectfully Yours

s/ Noel Gray

Mr. Noel Gray #09632-032/30

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, South Carolina

Dated: May 15, 2007

EXHIBIT H

The State of South Carolina
County of Aiken

~~CONFIDENTIAL~~
IN THE COURT OF GENERAL SESSIONS
FOR THE SECOND JUDICIAL CIRCUIT

State of South Carolina

2004-GS-02-1333-1334

V.
S.C.C. # 307390

Noel Gray #09632-032 Fed.

- MOTION TO VACATE SENTENCE AND CONVICTION -

The defendant, pro-se, hereby request to the General Session,
County of Aiken, for the Second Judicial Circuit to vacate, set
aside, rescind or render void the judgement imposed by this Court.

The basis of this Motion is more fully set forth herein. The
Defendant makes the following findings of facts and conclusions
of applicable case law in support of this Motion.

The defendant was indicted at the August 9, 2004 terms
of the Grand Jury for Aiken County, for Criminal Sexual Conduct
(C.S.C.) Second Degree (2004-GS-02-1333/2004-GS-02-1334 two
(2) counts. Defendant was found guilty before the Honorable
Jackson V. Gregory On the 2nd day of February, 2005, and
received a sentence of "Life without Parole" under the
S.C. Code of Law § 17-25-45 Recidivist Act.

Defendant did appeal his sentence!

2004-GS-02-1333-1334 + 01334

~~EXHIBIT A~~

- SUBJECT MATTER JURISDICTION -

The defendant's motion to vacate constitutes a timely motion for reconsideration and sufficient to call for an opportunity to offer supporting evidence. Following submittal of a timely Post-Trial Motion, this court retained jurisdiction over this defendant and case until the motion is determined. Rule 204, SCACR.

Accordingly, this court has jurisdiction over the defendant and subject matter.

"Subject Matter Jurisdiction is the Power of a Court to hear and determine cases of general class to which the proceeding in question belong citing, Gentry, 363 S.C. at 100, 610 S.E. 2d at 498; see also Pierce v. State, 338 S.C. 139, 150, 526 S.E. 2d 222, 227 (2000) (stating same principle). Dove v. Gold Kist, Inc., 314 S.C. 235, 38, 442 S.E. 2d 598, 600 (1994) (stating same principle). "The Circuit Court shall be a general trial Court with original jurisdiction in civil and Criminal cases, except those cases in which exclusive jurisdiction shall be given to inferior courts, and shall have appellate jurisdiction as provided by law."

The jurisdiction of a court over the Subject Matter of a proceeding is determined by the constitution. The laws of the State, and is fundamental, citing Anderson v. Anderson, 299 S.C. 110, 115, 382 S.E. 2d 897, 900 (1989). Subject matter jurisdiction may not be waived even with consent of the parties, citing Hunter v. Boyd, 203 S.C. 518, 525, 28, S.E. 2d 412, 416 (1943). The issue of Subject Matter jurisdiction may be raised at any time including when raised for the first time on appeal to this court citing as follows.

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Brown v. State, 343 S.C. 342, 346, 540 S.E. 2d 848, 898-49 (2001).

Furthermore, this court must, on its own motion, raise the issue of subject matter jurisdiction to ensure the "Orderly Administration of Justice," State v. Castleman, 219 S.C. 136, 139, 64 S.E. 2d 250, 252 (1951).

- ARGUMENT AND MEMORANDUM OF LAW -

* The defendant was sent to Aiken County by means of a State writ, "Interstate Agreement on Detainers Act," under Federal provisions. Defendant was taken from Lexington Federal Medical Center in Lexington, Kentucky, by officer's Shawn Rinaman #5063 and Coley Wilson #4496 of the Aiken County Sheriffs Department on September 1st, 2004. By the I.A.D.A. defendant was to be tried and convicted by no later than November 11, 2004. "Convicted February 2, 2005" *

Defendant was found guilty by jury for two (2) counts of Criminal Sexual Conduct with a minor 2nd degree. S.C. Code § 16-3-655(3) as on warrant, "dealing with the issue of "Sexual Battery" "Penetration" (2004-GS-02-1333/1334). Subsequently, defendant's sentence was enhanced under Section § 17-25-45(a) S.C. Code of law (1976). For past conviction of "Aggravated Child Molestation" as well as two (2) counts of C.S.C. with minor 2nd degree. Charges § 16-3-655(3). With the issue of "Penetration" this key element to convict a person of C.S.C. 2nd. S.C. Code § 16-3-655(3) was not proven beyond a reasonable doubt. Based on the evidence that the State provided.

2004-02-1333-01333-1
2004-02-1333-01333-1

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In this Motion, the defendant argues the facts proven "Penetration" "Sexual Battery" should have been proven beyond a reasonable doubt, to a jury as an element of a distant offense, not as a sentencing factor, thus prohibited, citing: *inter alia*, the "Due Process Clause" of the "Fourteenth Amendment" to the United States Constitution.

Furthermore, the defendant argues the statutory fact of "Penetration" and "Sexual Battery" both constitutes elements of the offenses, rather than a single offense with a choice of the "Maximum Penalties".

The Government was required to specify each of the elements in the Indictment and to prove the elements beyond a reasonable doubt, to a jury. In particular, the defendant relies on the precedent case citing: *Jones v. U.S.*, 526 U.S. 227, 143, I. ed. 2d. 311, 119, S. Ct. 1215 (1999); *Apprendi v. New Jersey*, 530 U.S. 147 I. ed. 2d. 435, 120 S. Ct. 2348 (June 26, 2000); and *Blakely v. Washington*, 124 S. Ct. 2531 (2004)

The United States Supreme Court in "Jones", ruled that the "due process" clause of the "Fifth Amendment" and the notice and jury trial "guarantees" of the "Sixth Amendment", any factor "other than Prior Convictions" that increases the "Maximum Penalty" for a crime must be "charged in an indictment", "submitted to a jury", and "proved beyond a reasonable doubt." In this instance, the defendant argues "he" is protected from suffering a "statutory penalty enhancement", In RE: Wlnship, 397 U.S. 358, 361-62, 90 S. Ct. 1068, 1071, 25 I. ed. 2d. 368, 373-74 (1970).

"Due Process" requires the Government to "prove beyond a reasonable doubt" every element of a charged offense.

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2004-65-02-01333 + 01304

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In addition, the United States Supreme Court in "Apprendi" ruled that any fact that increases the penalty for a crime beyond the prescribed "Statutory maximum" must be submitted to a jury, and proved beyond a reasonable doubt. The court pointed out that a defendant's "intent" in committing a crime is perhaps as close as one might hope to come to a core criminal offense element.

"And that the effect of this "enhancement" under the Statute of §17-25-45 S.C. Code of law, "unquestionable turns a "Second degree" (C.S.C.) offense into a "first degree" (C.S.C.).

Therefore, the Criminal offense of "Second degree (C.S.C.)" the presence of "Sexual Battery" and "Penetration" was an issue of fact for a jury.

The defendant argues the "Statutory Scheme" of "Sexual Battery" along with the "Past Conviction" of "Aggravated Child Molestation" in which was used "unconstitutionally" to enhance defendant's sentence to "Life without Parole" under the S.C. Code of law §17-25-45 recidivist Statute. Along with the different maximum Penalties, reveal the legislature intended to draw a "distinction" between the actual use of "force or violence" during an assault, with the former resulting in a conviction of "greater degree" and a harsher maximum Penalty. Citing: State v. Blackmon, 304 S.C. 270, 273, 403 S.E. 2d 660, 662 (1991).

It is well established that a court's primary function in interpreting a Statute is to "ascertain" the intention of the legislature, and when the terms of a Statute are clear and unambiguous, the Court "must apply" them according to their literal meaning.

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2004-050-01334

~~EXHIBIT 11~~

Therefore, the United States Supreme Court in "Blakely v. Washington", (Opinion Number 021632) Filed June 24, 2004, held in Criminal Sentence's "Cannot be enhanced" beyond that allowed by statute, unless the "facts" used for enhancement are determined by a jury, or the jury determination is waived. In this case, as in "Jones", "Appendi", and "Blakely", the "Fourteenth Amendment's" Due Process Clause and the "Sixth Amendment" right to a jury trial, which "indisputably entitles a criminal defendant to a jury determination that (He) is guilty of every element of a crime with which he is charged, beyond a reasonable doubt."

The defendant concedes that it is a fundamental concept of Criminal law, that the "State" must prove beyond a reasonable doubt, all the elements of the offense charged against the defendant.

When the "State fails" to present sufficient proof of all the elements, a "conviction" must be "Reversed" and a "Judgment" for the "defendant" must be rendered under the principles of "Burks v. U.S.", 437 U.S. 1, 98 S.Ct. 2141, 57 L.ed. 2d. 1 (1978); see also "State v. Gregorie", 339 S.C. 2, 528 S.E. 2d. 77 (2000).

2004-65-02-01333-01334

~~EXHIBIT 11~~

EXHIBIT # 21-9

Therefore, the defendant submits (he) was "denied" due process of law, "denied" equal protection of the law, "denied" the right to a "fair and Constitutional" trial. Thus violating the defendant's "Sixth and Fourteenth Amendments right to the United States Constitution."

The defendant next contends that (He) was "denied" effective assistance of Counsel in violation of the "Sixth and Fourteenth Amendments" during defendant's trial by jury.

In Alken County "Second Judicial Circuit", defendant was tried by jury, the "State" in its case and Chief, introduced certified records of the defendant's earlier "Prior Convictions" from Glynn County "Brunswick, Georgia" (Tr. p. 254 Lines 13-17) and Tr. p 265).

The defendant argues (he) had not been represented by Counsel to the admissions of those "prior Convictions". The failure to appoint counsel for an "indigent" "is" a unique Constitutional defect rising to the level of a "Judicial Defect", and the certified records of the "prior Convictions" on their face raised a "Presumption", that the defendant was "denied" his right to counsel, "under the standards of "Gideon v. Wainwright", 372 U.S. 335, 83 S. Ct. 792, 9 L. ed. 2d. 799 (1963). Further, the defendant argues to permit use of such a "tainted prior Conviction", for sentence enhancement is inherently "prejudicial" and would undermine the principle of "Gideon" 372 U.S. at 115, 88 S. Ct. at 262.

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on the vagina of a female under 18 years old. Therefore, there was no elements in past conviction for activating the S.C. Code of Law § 17-25-45 recidivist Statute, under "Penetration" or "Sexual Battery".

This "unlawful" act of "Prosecutorial Misconduct" and using "Unfair Prosecutor Tactics" is Unconstitutional under the "Sixth and Fourteenth Amendments". As such, the current sentence is not "justified" and should be "Void".

The defendant further contends, that he received "ineffective Assistance of Counsel" prior to and during defendant's "trial by jury", because (He) was misrepresented by "trial Counsel" for failing to "research" past convictions to counter react the "States" intent to "illegally" and "unconstitutionally" activate the "S.C. Code of Law § 17-25-45 recidivist Statute, in which "Cost the defendant (His) Life".

Under Section § 17-25-45(a)(2), a prior conviction from another state may be used to "trigger" the "recidivist statute" if the conviction is for "an offense that would be classified as the most serious included offense". Under Section § 17-25-45 (Supp. 2005), the "prior conviction" must contain all the elements of "Sexual Battery", "Penetration" of the most "serious" offense. Citing: State v. Lindsey 355, S.C. 15, 18-19, 583 S.E. 2d 740-41, (2003).

2004-GS-02-01332-101324

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~~CONFIDENTIAL~~"Past Criminal Conviction In Georgia""In Georgia," a person commits the offense of "Child Molestation" when(He) does any immoral or indecent act to or in the presence of or with any child under the age of 16 years, with the intent to arouse or satisfy the sexual desires of either the child or the person "Ga. Code Ann. §16-6-4(a) Supp. 2005)"Aggravated Child Molestation" occurs, "when such person commits an offense of "Child Molestation" which act "physically injures" the child, or involves the act of "Sodomy" Ga. Code Ann. §16-6-4(c) Supp. 2005).The "Georgia Indictment" against defendant alleged that (He), "unlawfully performed a sexual act, to wit; Sodomy (sic) an immoral and indecent act involving the mouth of the accused and the vagina of a minor victim "Tr. p. 265". "No Penetration or "Sexual Battery" involved.In Georgia, Sodomy occurs when a person "Performs or Submits" to any sexual act involving the "Sex Organs" of one person and the "mouth" or anus of another "Ga. Code Ann. §16-6-2 (a) Supp. 2005).This act does not require any "Skin to Skin" contact. A person may be "found Guilty" of this offense even if contact occurs with clothing on both parties" Citing: Brownlaw v. State, 544 S.E. 2d 472 - 476 (Ga. App. 2001); Holland v. State, 434 S.E. 2d 808 (Ga. App. 1993)

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In contrast, a person is "Guilty" of (C.S.C 2nd degree with a minor) if the "actor" engages in a "Sexual Battery" with a minor S.C. Code Ann. §16-3-655 (supp. 2005) "Sexual Battery" with a minor means "Sexual Intercourse", Cunnilingus, Fellatio, Anal Intercourse or any intrusion, however slight, of any part of a person's body or of any object into the genital openings of another persons body. "S.C. Code Ann §16-3-651(h).

In South Carolina, the act of "Cunnilingus" requires a "male tongue" to reach the "female Vagina" citing, "State v. Morgan", 352 S.C. 359, 369, 574 S.E. 2d. 203, 208 (Ct. App. 2002). In "defendants Indictment", there are "no allegations" that his tongue reached the alleged victims Vagina.

Contact with his mouth thru clothing constitutes "Aggravated - Child Molestation" in Georgia. But would not constitute Criminal - Sexual Conduct in South Carolina. Therefore, defendants prior conviction is not "a crime that would be "classified as a most serious offense".

Therefore, defendants counsel was "ineffective" and the Aiken County Solicitors Office were "Bias", using Prosecutorial Misconduct, and using "Unfair Prosecutorial Tactics" in which "Cost The Defendant - His Life" Defendant should not have been sentenced to life without Parole under the S.C. Code §17-25-45 recidivist Statute. Defendants Counsel "failure to discover and present Witnesses to testify to (His) character Citing; Butler v. State, 334 S.C. 2d. 813 (S.C. 1985). when defendant told "counsel" about Attorney George Bush of Augusta, Ga. 706) 722-1200 that alleged victims Mom and Mr. W. obtained to get "defendant" released from a "Probation Violation" in Brunswick, Ga. March 25, 2002, for \$3,000.00,

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November 13th, 2001, defendant was "arrested" at [REDACTED] New Ellenton, S.C. "M. Williams" by the Aiken County Sheriff's Department.

Defendant was placed in the Old Aiken County Detention Center. On record, L. Williams "victims alleged" mom, Minor [REDACTED], alleged victim and L. Williams, "M. Williams" wife visited defendant and gave (him) \$20.00. Phone calls were made to L. Williams and M. Williams (REDACTED).

In Georgia phone calls were made to M. Williams and L. Williams at [REDACTED] and [REDACTED] "L. Williams" Mom. Phone blocks were also put on M. Williams phone and Mrs. B. Williams phone. Mrs. B. Williams paid hers.

As well as cards, letters, pictures, money, art supplies were sent to Georgia from Minor [REDACTED], L. Williams, Mrs. B. Williams. In which Beanie Williams was ineffective for subpoenaing said stuff from L. Williams.

In which he did not obtain. M. Williams and L. Williams visited defendant (2) times and picked defendant up on the 3rd visit. Glyn County Detention Center, Brunswick, Ga. "Norwich St." On the months of March 27, 2002. Months of April, May, June, July, August on the 10th day of 2002, L. Williams, M. Williams Jr. K. Williams, Mrs. B. Williams and defendant drove to Brunswick, Ga to see probation officer Tommy Moree.

July 30, 2002, L. Williams "Alleged victim's Mom" paid \$1062.50 to the Honorable Donna D. Williams 803-652-7770 for a "Simple Larceny" and

L. Williams, Minor [REDACTED], and Mrs. B. Williams got defendant out of the New Aiken County Detention Center. June 28 thru July 5th of 2002, L. Williams paid for a trip to Mt. Vernon, Ill. 16 hour drive way to see defendant's Mom.

With her was Minor [REDACTED], defendant, M. Williams Jr. Evidence "Block Buster Video" Mt. Vernon, Ill. 62564. On Linda's "alleged victim's" mom's account.

HEE10 + 01324
EE10
CSG
TUNG

~~EXHIBIT 71-15~~

Moreover, a defendant receiving a sentence enhancement based on "Prior Convictions" may be allowed to show that earlier convictions cannot be used to support "enhancement". In other words, The Honorable Jackson V. Gregory, "Trial Judge" did in fact "violate" the defendants due process rights to a "fair and Constitutional trial" by jury. Tr. p. 257 Lines 21-25 / Lines 7-20). Trial Judge was in violation of the U.S. Constitutional Amendments of the United States of America in which he gave oath to enforce, to go into office. By "trial Judge" failing to conduct a evidentiary hearing before the Prosecutor proceeded to engage the § 17-25-45 statute "illegally and Unconstitutionally" deprived defendant of a "fair and Constitutional Trial by Jury" Citing; Jackson V. Virginia, 995 Sct. 271 (Supreme Court 1979) The defendant submits that a sentence is "remanded" and a "evidentiary" hearing is required by law, where defendant's sentence was "enhanced" by "Prior Conviction". Due to "ineffective Assistance of Counsel", for the defendants Counsel "failing" to "investigate" and "Research" post conviction, cost the defendant (His) Life. Citing: U.S. V. Breckenridge, 93 F. 3d. 132 (4th Cir. 1996); Cook V. Lynaugh, 821 F. 2d. 1072 (5th Cir. 1987). And "failing" to "empeach" States Witnesses, for admitting to lying to Jury, Solicitors, and Law Enforcement Officer. Tr. p. 51 Lines 12-14) p. 52 Lines 5-13) 57 Lines 7-22 ~~Lines~~, Tr. p. 75 Lines 4-11) p. 81 Lines 12-24) p. 83 Lines 3-24) 85 Lines 20-25) p. 86 Lines 1-25) p. 87 Lines 1-20 Minor, Tr. p. 94 Lines 23-25) p. 95 Lines 1-15) p. 97 Lines 19-23) p. 98 Lines 5-25) p. 99 Lines 2-21 ~~more~~ ~~was~~ ~~and~~ for prior inconsistent statements, This is "Purjury" giving false information under oath and on official documents Citing: Purjury, S.C. Code of Law § 16-4-10(a)(1) a "Felony act"

EXHIBIT A CT 10

- OFFICER COMMITTING PERJURY -

Officer David Blewett # 4163 did in fact commit the unlawful act of

"Perjury" while under oath. The said officer is employed by the Arken County Sheriffs Department, All "Facts" provided on this said record, and motion, prepared by the defendant, are all on Record of Transcript.

On February 1st, 2005, and the 2nd of 2005, Officer David Blewins #4163 did enfact lie under oath Tr. p. 33 lines 13-18. Opening Statements by Solicitor Chandler, Tr. p. 49 [REDACTED], Tr. p. 91 Minor [REDACTED] Tr. p. 101 all said by witnesses provided by the State, [REDACTED] Minor [REDACTED] and Officer David Blewins #4163, all state that Officer David Blewins was the initial Investigator.

Let the record show, that Officer David Blewins #4163 of the Aiken
County Sheriff's Department was NOT the Initial Investigator.

On the Supplemental Incident Report dated on the 10th day of September, 2002, Officer Tim Randall #4122, was the original officer who spoke to Minor at school. "Official Document Enclosed"

On the Aiken County Sheriffs Department Incident Report dated
on the 10th day of September 2002, Officer Tim Randall #4122 was the
Initial Investigator who spoke to Mom and Minor at [REDACTED]

New Ellenton, SC. Lt. Hammond of the Aiken County Sheriff's Department
#4442 assigned Officer David Blevins #4163 as the "follow up Investigator"

Therefore, Officer David Blevins #4163 did in fact "violate" S.C. Code of Law § 16-9-10(a)(2) in which is a "Felony". Therefore, "defendants Counsel" was "ineffective" for failing to present a coherent Argument to the Judge and jury based on defense of "Police Fabrication" and failure to use police Reports to impeach police officers' Testimony, that was contradicted by body of Police Reports. Cf. *Tejeda v. Dubois*, 142 F.3d. 18 (1st Cir. 1998); *Hardley v. Groose*, 97 F.3d. 1131 (8th Cir. 1996)

EXHIBIT #

~~EXHIBIT 31-17~~

On Record of transcript Page 8-12) p. 87, Lines 6-20 Minor

Stated that defendant and mom got into a fight and defendant left.
and after defendant left, Mom calls police, September 10, 2002,

On September 11th, 2002, Officer David Blewins #4163 was assigned
to case. By Lt. Hammond #4442, By Record, Tr. p. 109 Lines 12-17,
Officer States 3 weeks later September 30th, 2002, L Called
police. Tr. p. 82 Lines 8-12, defendant was not living with them according
to Minor "Alleged Victim", On September 30, 2002, L placed
a Criminal Domestic Violence Warrant # F-718985, stating that
defendant struck her with his hand, Tr. p. 87 Lines 6-20, Minor
alleged victim admits that defendant and mom argued and the defendant
left. That mom begged defendant not to leave. So let the record
show, Lindy placed a fake Domestic Warrant on defendant, and
defendant was not there. Therefore, the defendant argues that
this is an act of a "Vendetta" citing State v. Paul Schmidt,
No. 2251 Supreme Court of South Carolina (Decided March 31, 1986).
States "Evidence concerning "Hard Feelings" between child's family
and defendant is relevant "Reversed and Remanded"

Therefore, by Defense Counsel to allow States witnesses to lie
under oath, in a trial by Jury, in order to take the defendant's
Life is Unconstitutional and Illegal.

2004-0502-01333-01334

~~EXHIBIT #~~

The defendant concedes that this is the (Great United States of America) Not a third world country. Moreover, to use "Insufficient Evidence" to enhance the defendants sentence to "Life without Parole", is "unlawful" and "Unconstitutional". Therefore, "I AM AN AMERICAN" and the "U.S. CONSTITUTION" has to be "Honored" and "Justice has to be served". Therefore, the State and Defendant's Counsel is in violation of the "Interstate Agreement on Detainers Act" under "Federal Jurisdiction". And the "State" is in violation of said agreement by sending a "Federal" "Prisoner" to "State Prison" on the 15th day of February 2005. Defendant was transported to Kickland RFE in Columbia, SC, by officers Bowman and Ethridge, along with 2 large boxes of Federal belongings that were "destroyed" from the Aiken County Detention Center. "Official Documents Enclosed". May the 5th, 2004 the Said Agreement was activated by "Federal Authorities" signed by Solicitor Margain and Chandler of the Second Judicial Circuit. Aiken County, The deadline was November 11, 2004. On Record p. 254 lines 18-21, Solicitor Chandler mentioned a portion of the I.A.D.A to the Honorable Jackson V. Gregory. Therefore, this violation of Federal Code of Laws that "protects" the defendants right to a fast and Speedy Trial. And "Judicial Kidnapping". Therefore, this is Unjudicial error. Citing: U.S. v. Mauro, 436 U.S. 340, 98 S. Ct. 1934, 56 L. ed. 2d 329 (1978); U.S. v. Crawford, 982 F. 2d, 199 (6th Cir. 1993).

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~~EXHIBIT 17 H 21~~

Moreover, Evidence of Behavioral traits of Sexual Abuse victim along with "Rape Trauma" by solicitor Brisbin and Doctor Benedetto, "Schumpert refers to Rape Trauma" Tr. p. 137 lines 15-19, p. 139 lines 8-13, p. 140 lines 1-6, is "not admissible" where it is served as to "bolster" Childs testimony that a Crime occurred. Citing: State v. Rogers, 293 S.C. 505, 362, S.E. 2d. 7 (1987). Therefore, let the record show, the defendant respectfully submits that it is "proven beyond a reasonable doubt" that "Sexual Battery" "penetration" was not proven in defendant's trial. Defense Counsel was ineffective and Solicitor Brisbin, Solicitor Chandler, and Solicitor Barbara Morgan were using "Unfair Prosecutorial Tactics". Therefore, this is Ineffective Assistance of Counsel and Prosecutorial Misconduct due to no evidence of "Sexual Battery". Dr. Benedetto should not have been allowed to be a states witness. This act is "Unlawful and unconstitutional". Therefore, this Illegal act cost the defendant his life.

Moreover, please let the record show, the defendant states, I'm no lawyer, but I do know beyond a reasonable doubt, that I was in fact falsely prosecuted and convicted "unlawfully" and "unconstitutionally". Therefore, the defendant's Sentence and conviction is "Void".

~~EXHIBIT 17 H 21~~

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~~EXHIBIT 11-34-30~~- Conclusion of Facts -

The defendant hereby submits to the Honorable Courts of the Second Judicial Circuit of Aiken County. The defendant states that (He) is the (Victim) of "Unjudicial Error". Not only has (his) "constitutional Rights" been "violated", But (He) was "Killed" under the S.C. Code of Law §17-25-45 recidivist Statute without "Cause". The South Carolina Code of Laws are here to "Prosecute" criminals for "Violating" these said "laws" and "Statutes". But to "bend" laws and "Statutes" of the South Carolina Code of Laws and "Statutes" in fact is "Miscarriage of Justice" and "abuse" of Authority and the Constitutional Amendments of the United States of America. And to "Maliciously" deprive a person "defendant" of a "fair and Constitutionally Trial by jury" and "without cause" or "facts" commit "Prosecutorial Homicide" by "Killing" a man "The defendant" under the §17-25-45 recidivist Statute is in fact "Illegal". By allowing "States Witnesses" to "lie" and commit the unlawful act of "Perjury" under oath is "Illegal", and by "failing" to "research" and "prosecute" according to "facts" in which the state "did not" "prove" is "Illegal". The defendant wonders "who is the Criminal now".

Therefore, The State by law, had no "jurisdiction" of sufficient Evidence to "prosecute" defendant and "Illegally" take (His) "Life". Under the provisions of the S.C. Code of Laws and the United States Constitution, "Defendants" Trial by Jury is "Void", and by law, All "Indictments, warrants, and "Complaints" against the "defendant" should be "rendered" Void, reversed, and "vacated". That's The Law.

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~~EXHIBIT 11-34-30~~

~~EXHIBIT # 21, 21~~- Conclusion -

The defendant respectfully Submits, that he has run the gauntlet once to all charges. Some Grounds that results in the "Chilling Effect" that a Contrary rule would have on the right "to correct an erroneously Conducted initial trial". Furthermore, when a conviction is reversed due to "insufficient evidence", double jeopardy will bar retrial on all charges.

Therefore, the defendant respectfully requests this Honorable Court to please reconsider It's decision in light of "Double Jeopardy", with this "double jeopardy" clause, it will be a "grave miscarriage of justice" to have ran the gauntlet twice, for the same offenses. Accordingly, after an opportunity to offer "supporting evidence" of the "facts" and applicable laws.

Wherefore, the defendant respectfully request that the sentence and conviction "previously imposed" by this Court be "Vacated" "set aside", rescinded, or "rendered void". I remain Sincere, and would respectfully ask the Honorable Court for a "response" within Forty-Five days (45 days) after receipt of this motion of reconsideration.

Respectfully Submitted ,,,

~~Signature~~

2004-GS 02-01333
 10/13/11

~~EXHIBIT # 71-22~~

- New Research on Ineffective Assistance -

The defendant argues, trial Counsel was ineffective and deficient for failing to inform(him) of his Statutory right to make closing arguments to the jury during his guilt phase of his trial. Citing: Cooper v. Moore, 569 S.E. 2d. - 330 (2002).

The defendant also will show pre-judice, Counsel's errors were so serious, there is a reasonable probability of a trial would have been different. Citing: Johnson v. State, 325 S.C. 182, 480 S.E. 2d. 733 (1997).

Also citing: Franklin, 346 S.C. at 573-575, 552 S.E. 2d. at 724-725. In the instant case, defendants argue (he) did not testify before a jury, therefore, the jury did not have an opportunity to hear (him) argue for his innocence. Or hear (his) case or side of story. As accused in Franklin. Further the evidence against defendant was entirely circumstantial and not overwhelming.

Also the defendant argues that Counsel's failure to suppress "alleged victims Mom" Minor's false testimony, that after 4 years later, she participated in Sexual Act with daughter. Deprived defendant of a fair and Constitutional Trial by Jury. Citing: Smith v. Wainwright, 777 F. 2d. 609 (11th Cir. 1985) Trial Counsel's failure to suppress a confession can be extremely pre-judicial and constitute Ineffective Assistance of Counsel, where the confession is provided for the primary evidence to support of States Case. Therefore, the defendant was deprived of a "fair and Constitutional" trial by Jury.

2004-652-01333-4

~~EXHIBIT 21-23~~

The defendant argues that in Tr. p. 137 Lines 15-23, the Honorable gets on Solicitor Brishin for using "rape and Rape" several times. that the judge never got the impression that that was what we had in this case. The Solicitor stated "were not saying it was forceable". By facts, this is Prosecutorial Misconduct and using "unfair" prosecutorial Tactics. to inflict and enflame minds of the jury. This act is unlawful and unconstitutional and deprived defendant of a fair and Constitutional Trial by Jury.
Citing: Seehan v. State of Iowa, 37 F.3d. 389 (8th. Cir. 1994). Trial Counsel's failure to object to highly prejudicial remarks "Rape" made by "Solicitor and doctor" during opening Statements" in this case "Direct Examination" deprived defendant of a fair and Constitutional Trial by Jury. And constituted as ineffective Assistance of Counsel.

Therefore, the defendant argues by law, there were no elements to prove that in defendant's C.S.C. case that there were not any force or rape to alleged victim. So Trial Counsel's failure to charge Jury of a lesser-included offense of "Assault and Battery of a High and aggravated Nature (A.B.H.A.N.)" there were evidence from which the jury could have believed that the Sexual Intercourse was consensual and that no battery occurred until after the parties engaged in intercourse. Code 1976 316-3-652. and citing: Carter v. State, 301 S.C. 346, 392 S.E. 2d. 184 (1990); Brightman v. State, 336 S.C. 348, 520 S.E. 2d. 614 (1999) Chalk v. State, 313 S.C. 25, 437 S.E. 2d. 19 (1994)

2004-65-02-0/333 & 0/334

The State of South Carolina

Aiken County

IN THE COURT OF GENERAL SESSIONS

FOR THE SECOND JUDICIAL CIRCUIT

State of South Carolina

VS.

2004-GS-02-1333-1334

Noel Gray #09632-032/307590

Defendant

- Certificate of Service -

I Noel Gray "Defendant" hereby Certify that a True copy of the foregoing Motion to Vacate Sentence and Conviction and Memorandum of Law has been deposited with proper S.C.D.C official for mailing through the U.S. Mail. please forward a copy of the Motion to the Resident Judge for the Second Judicial Circuit, and please return a stamped /Filed copy back to me, please.

Respectfully Submitted

s/ Mr. Noel Gray #09632-032/307590

Broad River Corr. Inst.

Monticello # 148

4460 Broad River Rd.

Columbia, South Carolina

29210

Sworn and Subscribed before me

this 15th day of May, 2007

Notary Public for South Carolina

my commission expires: MARCH 17 2010

2004-GS-02-1333-1334

EXHIBIT 21

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Noel Gray, Jr., #307590,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
Case No.: 2008-CP-02-0734

04-GS-02-1333, 1334

Warrant # 718990

STATE OF SOUTH CAROLINA
COUNTY OF AIKENI, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing is a true and correct copy of the
original documents which have been filed in my office this

APR - 6 2009

Liz Godard
C.C.C.P. & G.A., Aiken County, S.C.

Barbara K. Gregory

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 18, 2008. The Respondent made its Return on or about December 29, 2008. An evidentiary hearing into the matter was convened on February 2, 2009, at the Aiken County Courthouse Bradley Boni, Esquire, represented the Applicant. Mary S. Williams, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Also testifying was Kelley Perkins Brown, Esquire. This Court also had before it a copy of the trial transcript, the records of the Aiken County Clerk of Court, the appellate records, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was indicted at the by the Aiken County Grand Jury for two counts of criminal sexual conduct with a minor – second degree (2004-GS-02-1333 & 1334). Kelley Perkins Brown, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Jackson V. Gregory. Applicant was found

4-6-09
Liz Godard
C.C.C.P. & G.A.
8:30 AM
Deputy Clerk

Page 1 of 6

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EXHIBIT #

2004-GS02-01333 & 01334

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guilty, and on February 2, 2005, Applicant was sentenced to life imprisonment on each count.

A notice of appeal was filed and an appeal perfected. An Anders brief was submitted, and Applicant submitted a *pro se* brief. The South Carolina Court of Appeals dismissed the appeal. State v. Gray, Op. No. 2008-UP-040 (S.C. Ct. App. filed Jan. 11, 2008). The remittitur was sent on January 30, 2008.

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

1. "Violation of Federal Interstate Agreement on Detainers Act."
2. "Ineffective assistance of trial counsel."
3. "Subject matter jurisdiction."

At hearing, Applicant pursued claims of ineffective assistance of counsel for failure to challenge the violation of the Interstate Agreement on Detainers Act and failure to challenge the application of the recidivist statute, S.C. Code §17-25-45.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2007).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP).

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Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, *citing Strickland*. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Failure to Challenge Violation of Interstate Agreement on Detainers Act

Applicant alleges that trial counsel was ineffective in failing to challenge a violation of the Interstate Agreement on Detainers Act, S.C. Code §17-11-10 ("IADA"). Applicant testified that he was transported to Aiken County from federal custody in September 2004. Applicant testified that

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~~EXHIBIT # 364~~

pursuant to §17-11-10, Article III, subsection (a), he should have been brought to trial within one hundred eighty (180) days of his transport to South Carolina. Because he was not tried until February 2005, Applicant argues that counsel should have challenged the trial.

Trial counsel produced a continuance order signed by the Honorable Reginal Lloyd on October 29, 2004, and filed November 8, 2004. Counsel testified that she spoke with Applicant on October 13, 2004, and informed him that the State was ready to proceed with trial but she felt she needed more time to meet with him due to the seriousness of the charges. Counsel testified that Applicant agreed to the continuance.

I find counsel's testimony credible. It appears that the trial was held after a proper continuance order was filed. Therefore, I find no deficiency in counsel's conduct in this regard.

Failure to Challenge Sentence under "Recidivist Statute," S.C. Code §17-25-45

Applicant was sentenced to life without parole (LWOP) on each count pursuant to S.C. Code §17-25-45, commonly referred to as the "recidivist statute" or "two strikes/three strikes law." At sentencing, the State introduced a certified copy of a conviction for aggravated child molestation from the State of Georgia. (Record on Appeal, pp. 265-266.) S.C. Code §17-25-45(A)(2) provides that "upon a conviction for a most serious offense as defined by this section, a person must be sentenced to life without the possibility of parole if that person has one or more prior convictions for: a federal or out-of-state conviction for an offense that would be classified as a most serious offense under this section." Counsel testified that in her research, the Georgia conviction would count as a most serious offense for purposes of S.C. Code §17-25-45. Applicant argues that because contact with the mouth through clothing can constitute aggravated child molestation in Georgia but would not be criminal sexual conduct in South Carolina, the Georgia conviction should not be

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considered a "most serious offense" in South Carolina.

This exact issue was raised on appeal. (See Final Anders Brief of Appellant, pp. 6-7.) The South Carolina Court of Appeals dismissed the appeal. An Anders review involves a full review of the record.

...[A]ccording to Anders the reviewing court is obligated to make a full examination of the proceedings on its own. Anders After such an examination, if the reviewing court agrees with the attorney, it may dismiss the appeal or proceed to a decision on the merits. On the other hand, if the court disagrees with the attorney's analysis of the appeal, it must afford the defendant "the assistance of counsel to argue the appeal." The purpose of filing a brief under Anders is to ensure the *merits* of the appeal are not overlooked. The court has to conclude independently, regardless of counsel's conclusion, whether or not the appeal has merit before it can dismiss the appeal.

[Internal citations omitted.] State v. McKennedy, 348 S.C. 270, 559 S.E.2d 850 (2002). It appears that this issue was ruled upon on direct appeal. Therefore, this court cannot find counsel ineffective in this regard.

Applicant argues that the Court of Appeals may have dismissed the appeal because the issue was not preserved. I find no evidence in the record to support this conclusion. Even so, it appears that the offense would qualify as a most serious offense under our law.

It appears that counsel researched the issue and, based on her research, determined that the Georgia offense would constitute a most serious offense under our law. Furthermore, the Court of Appeals addressed the issue on direct appeal. For these reasons, I find that counsel was not deficient in this regard. Further, Applicant has demonstrated no prejudice from the failure to challenge the use of his prior conviction; it appears that the Georgia conviction was properly used pursuant to S.C. Code §17-25-45.

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~~EXHIBIT # 31-1~~**Other Allegations**

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

CONCLUSION

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

This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 227 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED and DISMISSED WITH PREJUDICE; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 2 day of April, 2009.

DOYET A. EARLY, III
DOYET A. EARLY, III
Presiding Circuit Court Judge
Second Judicial Circuit Court

Bankers, South Carolina

EXHIBIT #

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The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggola
Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Ericka M. Williams
Assistant Disciplinary Counsel

August 6, 2009

PERSONAL AND CONFIDENTIAL

Noel Gray #307590
Broad River Correctional Institution
Murray #224
4460 Broad River Road
Columbia, SC 29210

RE: Lawyer: Kelley Perkins Brown, Esquire
Matter Number: 09-DE-L-0877

Dear Mr. Gray:

This is to acknowledge receipt of your complaint against Kelley Perkins Brown, Esquire. This office will conduct an investigation into the matters you have reported in your complaint. You will not necessarily be contacted by our office prior to a decision in your complaint; therefore, if you have any additional information or documentation to support your allegations, you should submit it at this time.

In the meantime, we want to give you some understanding about what this office and the Commission on Lawyer Conduct can do, and, more importantly, what we cannot do in connection with your complaint. It is important that you understand that neither this office nor the Commission can take any action to protect or promote your personal interests. You should not delay in seeking advice or taking action needed to protect those interests.

The authority of this office and the jurisdiction of the Commission are limited to issues of whether a lawyer has committed misconduct within the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR, adopted by the Supreme Court of South Carolina. Where misconduct is found, sanctions may be imposed upon a lawyer ranging from a confidential letter of caution all the way up to disbarment. If our investigation does not reveal evidence of lawyer misconduct, your complaint will be dismissed.

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Noel Gray
August 6, 2009
Page Two

Often, persons filing complaints against lawyers seek advice about their cases or request help in getting a lawyer to take certain action. However, under the applicable rules, the efforts of this office and the Commission must be directed toward promoting institutional values for the benefit of the public as a whole, and not toward obtaining relief for or rendering assistance to any individual complainant.

Neither this office nor the Commission has authority to give advice or to seek to obtain any relief on behalf of an individual complainant. We do not have any authority to determine whether the outcome of a case was fair; nor do we have the authority to intervene in any matter pending before a court or to seek to change a decision made by court. We do not have the authority to make a lawyer take any particular action on your behalf.

We take this opportunity to advise you of the limited role of this office and the Commission so that you will be aware that we cannot provide you with assistance or advice and that you should promptly seek assistance or advice that you might need from legal counsel or other sources.

You will be notified as to the final disposition of your complaint in this matter. Keep in mind that it is often many months after receipt of a complaint before a final disposition of can be made. Please refer to the case number set out above in any future correspondence or inquiries to this office concerning this matter.

Sincerely,


Ericka M. Williams

EMW/clg

2004-6502-01333-01334

Second Judicial Circuit Public Defender Office

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Aiken County Office
 410 Barnwell Avenue N.W.
 Post Office Box 2247
 Aiken, South Carolina 29802
 Telephone: (803) 642-1732 Fax: (803) 642-1739

~~De Grant Gibbons, Chief Circuit Public Defender~~

Wallis A. Alves, Chief Public Defender
 Kelley Perkins Brown, Deputy Public Defender
 Michael Routzong, Assistant Public Defender

M. Justin Mims, Assistant Public Defender
 B. Ashley McNorrill, Assistant Public Defender
 C. David Hayes, Assistant Public Defender

October 14, 2009

Ms. Ericka M. Williams
 Office of the Disciplinary Counsel
 P.O. Box 12159
 Columbia, SC 29211

Re: Noel Gray
 09-DE-L-0877

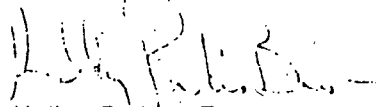
Dear Ms. Williams:

I am writing in response to the above-referenced complaint. First, let me again apologize for the tardiness of my response. As Ms. Alves and I told Ms. Coggiola, I was out of the office on maternity leave when the complaint packet was first received by my office. I appreciate the extension which Ms. Coggiola granted for me to make my response.

As I testified at Mr. Gray's PCR hearing, I did speak with him and went over both his case and his options in October of 2004. I proposed that we consent to a continuance so that I could further investigate his case and prepare for his trial. He agreed to do so. I did not get his consent in writing. In retrospect, I should have done so in order to protect myself against false allegations. Otherwise I understand that it is my word against his.

I believe that all other allegations raised in his complaint do not require a response from me. If you have any further questions, please do not hesitate to contact me.

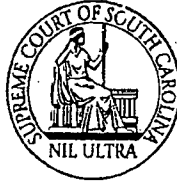
Sincerely,


 Kelley Perkins Brown
 Deputy Public Defender

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EXHIBIT #

104-1502-01223 + 01234



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

William C. Campbell
Assistant Disciplinary Counsel

January 11, 2010

PERSONAL & CONFIDENTIAL

Noel Gray #307590
Broad River Correctional Institution
Murray #224
4460 Broad River Road
Columbia, SC 29210

Re: Lawyer: Bradley L. Boni, Esquire
Matter Number: 09-DE-L-0876

Dear Mr. Gray:

This office has conducted a preliminary investigation concerning the allegations of lawyer misconduct raised in the complaint you filed in connection with the above-referenced matter. This investigation focused on those grounds for misconduct set out in the Rules for Lawyer Disciplinary Enforcement (RLDE), Rule 413, SCACR, adopted by The Supreme Court of South Carolina.

This office is not authorized to give any advice concerning a legal dispute or dealings with a lawyer; nor is it empowered to intervene in a case. We cannot seek to cause things to be done by a lawyer on behalf of a complainant; nor can we seek to change the outcome of a case. Instead, this office deals solely with issues of misconduct or incapacity related to lawyers under these rules. We do so to preserve institutional values of the legal system in South Carolina for the benefit of the public as a whole, not to obtain any individual benefit for a complainant.

The provisions of RLDE do not apply to legal matters related to whether or not the outcome of a dispute was fair or to errors of law or judgment that might have been made by a lawyer or judge. These are legal matters, which can only be addressed by you at trial or on appeal using appropriate procedures.

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EXHIBIT 11-18X-1

EX-16

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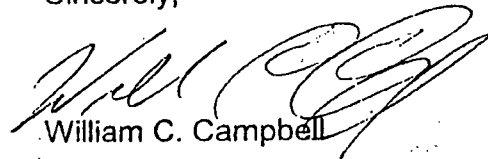
Noel Gray
January 11, 2010
Page Two

In your letter of complaint, you allege that Bradley L. Boni provide inadequate representation as your PCR counsel. As a result of your letter, this office conducted a preliminary investigation to ascertain if Mr. Boni's conduct violated the Rules of Professional Conduct or RLDE.

From our investigation, this office has determined that there is no evidence of any such lawyer misconduct on the part of Mr. Boni arising out of the events mentioned in your complaint and that further investigation would not likely reveal any such evidence.

Accordingly, the complaint in this matter is dismissed pursuant to the provisions of Rule 19(b)(2) of RLDE. As required by these rules, a copy of this letter is being sent to Mr. Boni as notice of the dismissal of this complaint.

Sincerely,


William C. Campbell

WCC/

cc: Bradley L. Boni, Esquire

2004-6502-01334-01334

(24-14)

3
~~EXHIBIT #187-2~~



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

William C. Campbell
Assistant Disciplinary Counsel

January 11, 2010

PERSONAL & CONFIDENTIAL

Noel Gray #307590
Broad River Correctional Institution
Murray #224
4460 Broad River Road
Columbia, SC 29210

Re: Lawyer: Bradley L. Boni, Esquire
Matter Number: 09-DE-L-0876

Dear Mr. Gray:

This office has conducted a preliminary investigation concerning the allegations of lawyer misconduct raised in the complaint you filed in connection with the above-referenced matter. This investigation focused on those grounds for misconduct set out in the Rules for Lawyer Disciplinary Enforcement (RLDE), Rule 413, SCACR, adopted by The Supreme Court of South Carolina.

This office is not authorized to give any advice concerning a legal dispute or dealings with a lawyer; nor is it empowered to intervene in a case. We cannot seek to cause things to be done by a lawyer on behalf of a complainant; nor can we seek to change the outcome of a case. Instead, this office deals solely with issues of misconduct or incapacity related to lawyers under these rules. We do so to preserve institutional values of the legal system in South Carolina for the benefit of the public as a whole, not to obtain any individual benefit for a complainant.

The provisions of RLDE do not apply to legal matters related to whether or not the outcome of a dispute was fair or to errors of law or judgment that might have been made by a lawyer or judge. These are legal matters, which can only be addressed by you at trial or on appeal using appropriate procedures.

(24-17)

EXHIBIT 11/18/10

EXHIBIT 11/18/10

-B1333+ 01334
CSA2

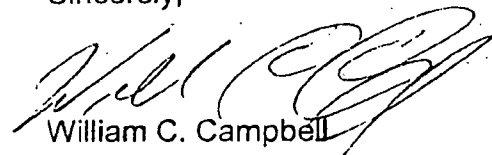
Noel Gray
January 11, 2010
Page Two

In your letter of complaint, you allege that Bradley L. Boni provide inadequate representation as your PCR counsel. As a result of your letter, this office conducted a preliminary investigation to ascertain if Mr. Boni's conduct violated the Rules of Professional Conduct or RLDE.

From our investigation, this office has determined that there is no evidence of any such lawyer misconduct on the part of Mr. Boni arising out of the events mentioned in your complaint and that further investigation would not likely reveal any such evidence.

Accordingly, the complaint in this matter is dismissed pursuant to the provisions of Rule 19(b)(2) of RLDE. As required by these rules, a copy of this letter is being sent to Mr. Boni as notice of the dismissal of this complaint.

Sincerely,


William C. Campbell

WCC/

cc: Bradley L. Boni, Esquire

2004-65-02-01333 v0/334

(24-19)

2-K017-1011X2

~~CONFIDENTIAL~~

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
v.)

ORDER FOR CONTINUANCE

NOEL GRAY,
DEFENDANT)

Ind. #: 2004-GS-02-1333 to 2004-GS-02-1335

This matter comes before the Court on the combined motions of the Defendant, by and through his attorney Kelley Perkins Brown, and the State for an order continuing this matter pursuant to the Interstate Agreement of Detainers.

Upon review of the file, the Court finds the following:

1. The Defendant Noel Gray has been indicted for two counts of Criminal Sexual Conduct with a Minor in the Second Degree and one count of Grand Larceny;
2. The Defendant properly filed for disposition of these charges pursuant to the Interstate Agreement on Detainers on May 11, 2004;
3. The Defendant has been transported from the Federal Medical Center in Lexington, KY to the Aiken County Detention Center;
4. The Defendant, his attorney, and the State are all in agreement that this matter should be continued for good cause at this time as the attorney for the Defendant does not feel that she has had adequate time to prepare a defense on these charges, and the State was prepared to try this case during the October 2004 term of court;
5. The State agrees that if this matter, and any related indictments that may arise from the facts alleged in the original indictments, is not disposed of by February 28, 2005 then the above-listed indictments, and any related indictments that may arise from the facts alleged in the original indictments, will be dismissed with prejudice pursuant to the Interstate Agreement on Detainers.

IT IS SO ORDERED.

DONE this 29th day of October 2004 at Aiken, South Carolina.

FILED 2004

Liz Holcomb
C.C.P. & G.S.

Sharon Hight
Deputy Clerk

Reginald J. Lloyd
Reginald J. Lloyd
Chief Administrative Judge
Second Judicial Circuit

EXHIBIT # 35

2004-GS-02-1333 & 01334

I SO CONSENT:

Kelley Perkins Brown
Kelley Perkins Brown
Attorney for Defendant

I SO CONSENT:

Everett K. Chandler
Everett K. Chandler
Assistant Solicitor
Second Judicial Circuit

2004-G502-01333 + 01334

FILED FILED 200

Liz Rodard
U.C.C.P. & G.S.
Sharon Stinson
Deputy Clerk

EXHIBIT # 36

~~EXHIBIT # 36~~
~~EXHIBIT # 36~~

Defender Corporation of Aiken County
 410 Barnwell Avenue NW
 Post Office Drawer 2247
 Aiken, South Carolina 29802

Regina P. Poteat, Chief Public Defender
 Kelley Perkins Brown, Deputy Public Defender

David M. Mauldin, Assistant Public Defender
 H. Lane Danielson, Assistant Public Defender
 Billie Goodman, Assistant Public Defender

August 3, 2004

Mr. Noel Gray
 1037 Cedar Street
 New Ellenton, South Carolina 29809

Aiken 29803

Dear Mr. Gray:

Your case has been indicted for General Sessions Court. You will be required to appear for roll call at 9:00 a.m. the first day of each term of court. You may be required to remain in court until your case has been disposed of. If you are not present for roll call, a bench warrant will be issued for your arrest. The upcoming terms of General Sessions Court August through December 2004 are as follows:

AUGUST 9 through AUGUST 13, 2004
 SEPTEMBER 6 through SEPTEMBER 17, 2004
 OCTOBER 18 through OCTOBER 29, 2004
 NOVEMBER 8 through NOVEMBER 12, 2004
 DECEMBER 6 through DECEMBER 10, 2004

Please note that no shorts, hats, or T-shirts are allowed in the Court Room. Please do not leave the Court Room unless you have been excused by the Solicitor or by the Judge. Your attorney does not have the authority to excuse you from court. If you are unsure of what is going on with your case, please speak with your attorney in the Court Room.

We will not be mailing out notification letters before each term of Court. Do not throw this letter away, as this will be your only notification of the Court dates August through DECEMBER 2004. Please notify us on any address or phone number changes.

Respectfully,

Kelley Perkins Brown

Kelley Perkins Brown
 Aiken Co. Public Defender

EXHIBIT #1

2004-6502-01333 + 013334

RECEIVED

MAR 20 2012

BRCI
MAILROOMNoel Gray # 307590 - Defendant -
Murray # 212 - B
Broad River Corr. Inst.
4460 Broad River Rd.
Columbia, S.C. 29210

March 19, 2012

South Carolina Bar
950 Taylor St.
P.O. Box 608
Columbia, S.C. 29202-0608Re: Legal Complaint against Kelly Perkins Brown, Esquire, Aiken County
Public Defender's Office, 410 Barnwell Ave. NW, P.O. Drawer 2247,
Aiken, South Carolina 29802 For Ineffective Assistance of Trial Counsel /
Legal Malpractice.Pursuant to Peeler v. Hugh + Luce, 909 S.W. 2d 494 (1995),
the defendant in this case, places a Attorney Malpractice action
against his Trial Counsel's negligence and he will prove all four (4)
elements (1) the existence of a duty; (2) the breach of that duty;
(3) that the breach was a proximate cause of damages; and (4) that
the defendant was damaged. The law require for a necessary showing
of a causal relation between the act complained and the injury sustained.
Brown v. Edwards Transfer Co., 764 S.W. 2d 220, 223-24 (Tex. 1988).The Corner Stone of IAC is set forth by the Supreme Court
of the United States is Strickland v. Washington, 466 U.S. 668, 104 S. Ct. -
2052, 80 L. Ed. 2d 674 (1984). The Sixth Amendment of the U.S. -
Constitution guarantees the right to effective assistance of Counsel
in all Criminal prosecutions. McMann v. Richardson, 397 U.S. 749 (1970);
Cuyler v. Sullivan, 446 U.S. 335 (1980); Morrison v. Duckworth, 898 -
F. 2d 1298 (7th Cir. 1990); Shaddy v. Clark, 890 F. 2d 1016 (8th. -
Cir. 1989); (per curiam); U.S. v. Angelone, 894 F. 2d 1129 (9th. Cir. -
1990); Strickland, Supra; U.S. v. Chronic, 466 U.S. 648 (1984); -
Bolander v. Singletary, 16 F. 3d 1547 (11th. Cir. 1994); Battle v. Delo, -
19 F. 3d 1547 (8th. Cir. 1994);

+ 01334

2604-6502-01333

February 2, 2005 the defendant was convicted by Jury and Sentenced to a LWOP Life With Out Parole Sentence under the S.C Code Ann. §17-25-45 (a) Recidivist Statute. See Page 1-2 of the Discovery Exhibit Package, February 25, 2004 Trial Counsel filed for Rule 5 Discovery pursuant to Brady v. Maryland, 373 U.S. 83 (1963), See page 3. January 12, 2005 Rule 5 Chain of Custody for Solicitors Office page 4, the Defendant wrote to this Bar in regard to Trial Counsel's failure to disclose Rule 5 discovery. Page 5, August 13, 2006 Defendant wrote to Trial Counsel trying to receive Rule 5, See page 6, 7, August 29, 2011 Defendant filed for vital information from Trial Counsel see page 8-12, October 18, 2011 defendant wrote to Trial Counsel's Boss Ms Wallis Aves see page 13-16, for vital information; October 17, 2011 defendant wrote to the South Carolina Court Administration for help to retrieve this vital information See page 17-18, October 7, 2011 Trial Counsel wrote a official letter telling me that she has not provided me with all the information I requested. See page 19, During the course of receiving a Discovery "Partial", from Trial Counsel dated October 12, 2011 I received two (2) plea Agreements that was not introduced to me at all. See pages 20-21,

Under Deficient Performance, turning to the facts of the instant legal Complaint against Trial Counsel Kelly P. Brown, Esq. I find that Trial Counsel's failure to convey the States two (2) Plea Agreements to the defendant constituted deficient performance. Amongst the discloser, was the (2) two plea offers that Counsel failed to communicate. Although Counsel's failure to do so could be construed as to excusable neglect if one believes that the States written offer was truly "lost" in the process of Counsel's office duties. The defendant contends that such neglect would not negate the deficient performance.

Failure to disclose complete discovery, the defendant proceeded to Trial on January 31 - February 2, 2005 without any counseling, as to any strategy, yet alone to discuss any of the facts that may effect the outcome of the proceeding. The defendant was prejudiced. the prejudicial effect is clear, Trial Counsel's failure to communicate a plea offer, what ever the terms, was

inherently prejudicial because the deficient conduct prevented the defendant from making an informed decision. See e.g. - State v. Simmons, 65 N.C. App. Ct. 294, 304 S.E. 2d 493, 498 - (N.C. Ct. App. 1983), (concluding defendant was clearly prejudiced by his Attorney's failure to inform him of the [Plea Bargain] offer. Also Harris v. State, 875 S.W. 2d 662, 665 (Tenn. 1994). "There is no doubt that the prejudice suffered by defendant was the direct result of failure on the part of defense Counsel, to discuss the plea offer with his client and his failure to respond timely to the State's offer." See pages 20-21 Offer #1 Expires October 18, 2004, Offer #2 Expires January 21, 2005, Not either one was available nor offered. The defendant went from Federal Prison under the Federal I.A.D.A straight to Trial. See pages 22-23, State v. James, 48 Wn. App. 353, 739 P. 2d 1161, 1167 (Wash. Ct. App. 1987). "If we were presented with a finding, supported by substantial evidence, that in fact [Counsel] failed to convey the plea bargain negotiation to his client, we would have had no hesitation in concluding they were denied effective Assistance of Counsel on this error alone." No pre trial Consultation accorded between Counsel and defendant prior to trial. Trial Counsel had no reasonable basis for failing to inform him of such offer. Had this offer been known, the defendant may have accepted the plea offer or lesser included offense, but for the inadequate notice the defendant proceeded to trial. Strickland v. Washington, 466 U.S. 668 (1984). [A] defendant has the right to effective assistance of Counsel. Judge v. State, 321 S.C. 554, 471 S.E. 2d 146 (1986); Overruled on other grounds by Jackson v. State, 342 S.C. 95, 535 S.E. 2d, - 926 (2000). Because Trial Counsel failed to convey the plea agreement, offered by the State, this Unconstitutional act deprived the defendant of his due process rights and equal protection of the law. And trial Counsel acted out of professional norm and became a friend to the Court pursuant to S.C.R.C. 60(b)(3). and this error cost the defendant his life pursuant to the S.C. Code Ann. § 17-25-45 Recidivist Statute. Trial Counsel's error violated due process at trial under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 § 14

2004-6522-01333/01334

March 8, 2010

Dear Ms. Carter,

Hello, my name is Noel Gray #307540

Im writing you concerning my case.

On your Conclusion my Certiorari should be granted
in order to allow full briefing on the issue.

Please Send me a copy of your full brief that
you are wanting to Argue on my behalf.

Also, my Motion for Production of Evidence
for Scientific Testing and Motion For an Extraordinary
Writ in the Original Jurisdiction of the Supreme
Court. was Filed as part of my Post Conviction
Relief Action not on a Habeas Corpus. Under
the State Freedom of Information Act Under S.C. Code -
Ann. § 30-4-10 through § 30-4-165 and the Privacy Act
of 1974 Title 5 Section 552(a) I am intitled to
this request that the state has Denied. me of.

I need you to argue this fact for me. My Due
Process intitles me to Equal Protection of the Law.
Im seeking this information within 30 days of
this request.

Respectfully Requested

Noel Gray #307540

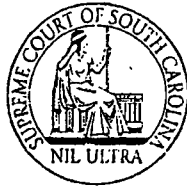
B.R.C.I Murry 212

4460 Broad River Rd.

Columbia, S.C. 29210

2004-6502-0/333 & 0/334

~~CONFIDENTIAL~~



61

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

December 3, 2009

Noel Gray #307590
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Gray, Noel Jr. v. The State

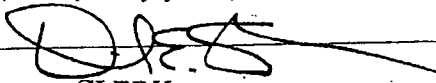
Dear Mr. Gray:

Your counsel has submitted a Petition for Writ of Certiorari indicating that this appeal is without merit and moves to be relieved as your counsel. Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The records of this Court reflect that counsel served you with a copy of the Petition & Appendix on December 2, 2009.

You may, within forty-five (45) days of the date of this letter, file with this Court a pro se response to the Petition filed by your counsel. In this response, you may raise and argue any issues you believe the Court should consider in this appeal. Upon receipt of your pro se response or the expiration of forty-five (45) days, the matter will be submitted to the Court for its consideration.

If you do decide to file a pro se response, the response must be either typewritten or legibly hand printed, and must have at least a one inch margin on all sides. Further, you will need to only submit one copy of your response, and this copy should not be stapled or bound in any manner.

Very truly yours,


CLERK

DES/jj

cc: Deputy Chief Appellate Defender Wanda H. Carter
Assistant Attorney General Mary S. Williams

(~~DES~~)

2004-6502-013334-01334

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

62

CERTIORARI TO AIKEN COUNTY
DOYET A. EARLY, III, CIRCUIT COURT JUDGE

RECEIVED

DEC 29 2009

S.C. SUPREME COURT

NOEL GRAY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

WRIT OF CERTIORARI
- FINAL PRO-SE BRIEF OF PETITIONER -

NOEL GRAY # 307590
PETITIONER

BROAD RIVER CORR. INST.
4460 BROAD RIVER RD.
COLUMBIA, SOUTH CAROLINA

29210

(EX # 12)

[REDACTED]
[REDACTED]
[REDACTED]

EXHIBIT F-7

2004-6502-01333 + 01334

The Supreme Court of South Carolina

Noel Gray, Jr.,

Petitioner,

v.

State of South Carolina,

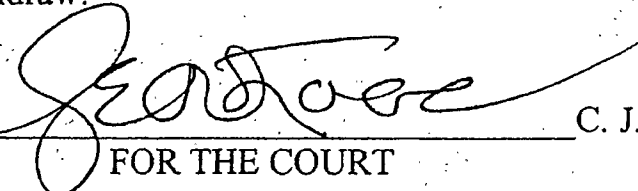
Respondent.

ORDER

This matter is before the Court on a petition for a writ of certiorari following the denial of petitioner's application for post-conviction relief.

Petitioner's counsel asserts that the petition is without merit and requests permission to withdraw from further representation. Petitioner has responded *pro se*.

After careful consideration of the entire record as required by *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988), we deny the petition and grant counsel's request to withdraw.


C. J.
FOR THE COURT

Columbia, South Carolina

December 2, 2010

2004-6502-01333 401334

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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

CERTIORARI TO AIKEN COUNTY

DOYET A. EARLY, III, CIRCUIT COURT JUDGE

NOEL GRAY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

JOHNSON PETITION FOR WRIT OF CERTIORARIWANDA H. CARTER
Deputy Chief Appellate DefenderSouth Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
[REDACTED]

ATTORNEY FOR PETITIONER.

2004-65-22-01333 401334

C-5

56

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PETITION TO BE RELIEVED AS COUNSEL	8

2004-6502-01333 & 01334

ISSUE PRESENTED

Trial counsel erred in failing to object to petitioner's LWOP sentence under 17-25-45 in order to preserve the issue for appellate review because the prior conviction used to enhance sentencing did not qualify as a most serious offense under South Carolina criminal sexual conduct offenses.

2014-6507-0/333 & 0/334

STATEMENT

Petitioner Noel Gray was convicted of two counts of second-degree criminal sexual conduct with a minor during the January through February 2005 term of the Aiken County General Sessions Court before the Honorable Jackson V. Gregory, Judge. Petitioner was sentenced to imprisonment for a period of life without parole per S.C. Code Ann. §17-25-45 due to his prior aggravated child molestation conviction from Georgia. App. pp. 1 – 259. Petitioner appealed, but his appeal was dismissed. See Supp App for appellate brief and State v. Gray, Unpublished Opinion No. 2008-UP-040 (Ct. App. filed January 11, 2008).

On April 18, 2008, petitioner filed a PCR application with the Aiken County Office of the Clerk of Court. App. pp. 260 – 265. The respondent filed a return dated December 29, 2008, requesting that a hearing be held in response to petitioner's application. App. pp. 266 – 269.

An evidentiary hearing was convened on February 2, 2009, at the Aiken County Courthouse before the Honorable Doyet A. Early, III, Judge. App. pp. 271 – 288. On April 2, 2009, Judge Early issued an order of dismissal denying post-conviction relief to petitioner.

Petitioner appealed. This petition follows.

2004-6522-01333 v 01334

ARGUMENT

Trial counsel erred in failing to object to petitioner's LWOP sentence under 17-25-45 in order to preserve the issue for appellate review because the prior conviction used to enhance sentencing did not qualify as a most serious offense under South Carolina criminal sexual conduct offenses.

At trial, Linda Brown testified that from July 2001 to November 2001, she and her daughter lived with Mike Williams and petitioner, and that during that time petitioner had sexual intercourse with her daughter while she and her daughter slept in the same bed. In addition, Brown testified that from August 2002 through September 2002, she and her daughter and petitioner lived in a trailer owned by Michelle Cusimano, and that she found petitioner in bed with her daughter while there also. App. p. 39, line 17 – p. 50, line 19. Linda Brown's daughter testified that petitioner had sex with her at Mike Williams' house and inside the Cusimano trailer. App. p. 66, line 1 – p. 82, line 22.

At sentencing, the state sought LWOP enhanced sentencing due to petitioner's "prior conviction of aggravated child molestation" emanating from the State of Georgia because "based on the elements of that particular offense in Georgia it would be classified as criminal sexual conduct and a most serious offense." App. pp. 254, lines 4 – 17. Trial counsel remained silent and failed to object to the use of the prior Georgia conviction as an enhancer in support of an LWOP sentence. Petitioner was sentenced to life imprisonment.

During the PCR hearing, petitioner testified that trial counsel erred in failing to challenge and object to the state's use of the Georgia prior conviction because the prior did not contain all the elements required for criminal sexual conduct as a most serious offense. App. p. 273, lines 11 – 13;

2004-12502-01333
* 01334

App. p. 274, lines 9 - 14. PCR counsel argued that the indictment on the prior alleged that petitioner performed sodomy involving his mouth and the victim's vagina, but neither that Georgia statute nor the prior addressed the issue of skin to skin contact as required by South Carolina Criminal Sexual Conduct statutes. App. p. 279, line 20 - p. 281, line 3. PCR counsel argued that even though this issue was argued on direct appeal, the case was dismissed on appeal because "trial counsel did not raise this issue at sentencing," which meant the issue was not preserved for appellate review. App. p. 282, lines 5 - 9. In the appellate opinion¹, the Court of Appeals did not affirmatively find that the prior did not meet the elements of our state criminal sexual conduct statutes. Rather, it appeared that the issue was not reviewed on appeal because it was not properly preserved as an issue via objection for appellate review. Trial counsel testified that the elements for the Georgia conviction matched our criminal sexual conduct statutes. App. p. 284, line 12 - p. 285, line 10.

In Georgia, a person is guilty of sexual misconduct even if contact occurs while the victim wears clothing. Brownlaw v. State, 544 S.E.2d 472 (Ga. App. 2001); Holland v. State, 434 S.E.2d 808 (Ga. App. 1993). In South Carolina, sexual battery involves skin to skin contact. S.C. Code Ann. § 16-3-651 (h); State v. Morgan, 352 S.C. 359, 574 S.E.2d 203 (2003). Here, the Georgia indictment did not allege that petitioner's tongue touched the victim's vagina. Thus, in light of the consideration of the elements, the Georgia prior did not constitute a criminal sexual conduct serious offense worthy of an enhancement trigger per LWOP under S.C. Code Ann. § 17-25-45. Compare State v. Lindsey, 335 S.C. 15, 583 S.E.2d 740 (2003), where the Court held that the defendant's prior rape conviction did not qualify as a most serious offense with respect to our state criminal

¹ State v. Gray, Op. No. 2008-UP-040 (S.C. Ct. App. filed January 11, 2008).

2004-125-02-01333 40/334

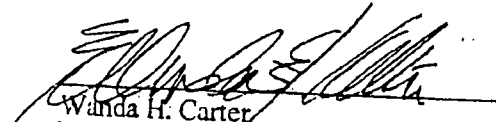
sexual conduct statutes because there was no indication that the prior rape contained the requisite element of force, i.e. via aggravated force of aggravated coercion under S.C Code Ann §16-3-652 and 653. The Lindsey Court reversed the LWOP sentence and remanded for re-sentencing.

As a rule, unless an objection is made at the time the evidence is offered and a final ruling is made, the issue is not preserved for review. State v. Rice, 375 S.C. 302, 652 S.E.2d 409 (Ct.App.2007). Trial counsel erred in failing to object to petitioner's LWOP sentence under 17-25-45 because the prior conviction used to enhance sentencing did not qualify as a most serious offense in light of South Carolina criminal sexual conduct statutes. Trial counsel's error in failing to preserve the issue for appellate review violated due process at sentencing under the Sixth and Fourteenth Amendments to the United States Constitution and article 1 § 14 of the South Carolina State Constitution.

CONCLUSION

Based on the foregoing argument, petitioner's writ of certiorari should be granted in order to allow full briefing on the issue.

Respectfully submitted,


Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

December 2, 2009

2004-6502-01338 & 01334

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO AIKEN COUNTY
DOYET A. EARLY, III, CIRCUIT COURT JUDGE

NOEL GRAY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Noel Gray, Jr. states:

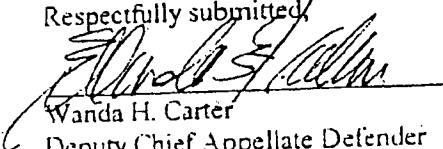
1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent petitioner.

2. She has reviewed the records and transcript of petitioner's post-conviction relief hearing which was held on February 2, 2009. In her opinion seeking certiorari from the order of dismissal is without merit.

3. She has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed the one arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve her as counsel for Noel Gray, Jr..

Respectfully submitted,


Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

December 2, 2009

2004-6502-01333 401334

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO AIKEN COUNTY
DOYET A. EARLY, III, CIRCUIT COURT JUDGE

NOEL GRAY,

PETITIONER,

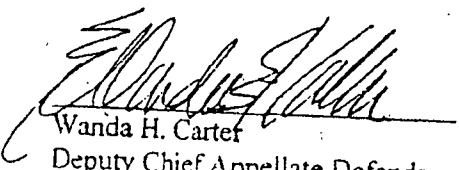
V.

STATE OF SOUTH CAROLINA,

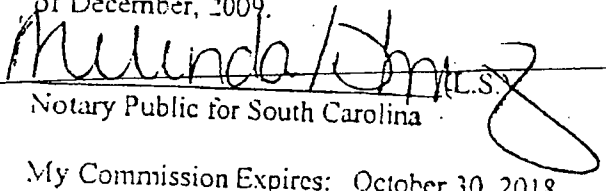
RESPONDENT

CERTIFICATE OF SERVICE

I certify that a true copy of the Johnson petition for writ of certiorari, a copy of the appendix, and a copy of the supplemental appendix in this case have been served on Mary S. Williams, Esquire, and Noel Gray, Jr., #307590, Broad River Correctional Institution, this 2nd day of December, 2009.

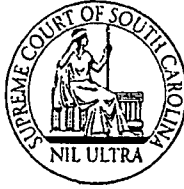

Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 2nd day
of December, 2009.


Notary Public for South Carolina

My Commission Expires: October 30, 2018.

2004-0502-01333 20/334



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 2, 2010

Deputy Chief Appellate Defender Wanda H. Carter
South Carolina Commission on Indigent Defense
P O Box 11589
Columbia, SC 29211

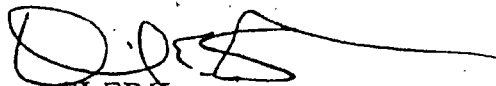
Re: Gray, Noel Jr. v. The State

Dear Counsel:

Enclosed is the Order denying your Petition for Writ of Certiorari and granting your Petition to be Relieved as Counsel in the above entitled matter.

The remittitur will be sent to the lower court as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,


CLERK

DES/jj

cc: Noel Gray #307590
Assistant Attorney General Mary S. Williams

(EXHIBIT 17)

2004-6502-01333 & 01334

The Supreme Court of South Carolina

Noel Gray, Jr.,

Petitioner,

v.

State of South Carolina,

Respondent.

ORDER

This matter is before the Court on a petition for a writ of certiorari following the denial of petitioner's application for post-conviction relief.

Petitioner's counsel asserts that the petition is without merit and requests permission to withdraw from further representation. Petitioner has responded *pro se*.

After careful consideration of the entire record as required by *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988), we deny the petition and grant counsel's request to withdraw.

 C. J.
FOR THE COURT

Columbia, South Carolina

December 2, 2010

(EXHIBIT 8)

2004-6302-01333 40/334

of the South Carolina State Constitution. An official Letter from the National Association of Criminal Defense Lawyers dated June 6, 2007, Trial Counsel is a Member of this Legal NACDL. They protect the U.S. Constitution as well as it's members, But at trial, acted out of professional norm and violated her Clients rights to effective Assistance of Counsel and as a result the defendant was sentenced to Life without the possibility of parole under the S.C. Code Ann. § 17-25-45 Recidivist Statute. Evidence applied to this complaint is true and correct to the best of my knowledge.

Respectfully Submitted,
 Noel Gray #307590
 Noel Gray
 Murray # 212-B
 Broad River Corr. Inst.
 4460 Broad River Rd.
 Columbia, S.C. 29210

2004-6522-01333 + 01334

Sworn and Subscribed before me

this 20th day of March, 2012

by Susan H. Frye

Notary Public for South Carolina

My Commission Expires:

My Commission Expires
March 5, 2018



453

950 Taylor Street
PO Box 608
Columbia, SC 29202-0608
803-799-6653 Phone
803-799-4118 Fax
www.schar.org

ADVANCING JUSTICE,
PROFESSIONALISM
AND UNDERSTANDING
OF THE LAW.

March 27, 2012

Noel Gray #307590
Broad River Corr. Inst., Murray #212-B
4460 Broad River Rd.
Columbia, SC 29210

Re: Attorney Complaint

Dear Mr. Gray:

Your attorney complaint has been forwarded to the Office of Disciplinary Counsel. They are charged with investigating and disciplining attorneys that are accused of misconduct. They will notify you when a decision has been made regarding your attorney.

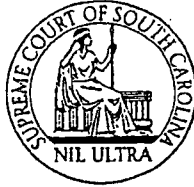
You can write to their office at:

Office of Disciplinary Counsel
PO Box 12159
Columbia, SC 29211

Best wishes,

Client **A**ssistance **P**rogram
South Carolina Bar
P.O. Box 608
Columbia, SC 29202

2004-6502-01333 & 01334



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 21, 2010

REMITTITUR

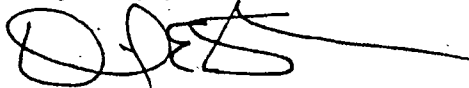
The Honorable Liz Godard
109 Park Ave
PO Box 583
Aiken, SC 29802-0583

Re: Gray, Noel Jr. v. The State – 2008-CP-02-00734

Dear Mrs. Godard:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Very truly yours,


CLERK

DES/jj

cc: Deputy Chief Appellate Defender Wanda H. Carter
Noel Gray #307590
Assistant Attorney General Mary S. Williams

2004-6502-01333 + 01334



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Barbara M. Seymour
Deputy Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2600

January 13, 2010

PERSONAL AND CONFIDENTIAL

Noel Gray #307590
Broad River Correctional Institution
Murray #212
4460 Broad River Road
Columbia, SC 29210

RE: Lawyer: Wanda H. Carter, Esquire
Case Number: 09-DE-L-1542

Dear Mr. Gray:

We have received and reviewed your complaint against Wanda H. Carter, Esquire. The authority of this office and the jurisdiction of the Commission on Lawyer Conduct concerning complaints against lawyers are limited to issues of whether a lawyer has committed misconduct or is incapacitated within the guidelines of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR, adopted by the Supreme Court of South Carolina.

These rules do not apply to matters related to whether or not the outcome of a case handled by a lawyer was fair. We do not have authority to intervene in any matter presently pending before a court or to change the outcome of the decision of a court. These are legal matters which must be addressed by you to the court or raised by you on appeal using the appropriate appellate procedures.

In addition, this office does not seek to get a lawyer to do something a person wants done. We cannot give advice about your case or the legal system in general. This is not a place for an individual to seek relief, but a place where institutional values are promoted for the good of everyone who has dealings with our legal system.

(25-111)

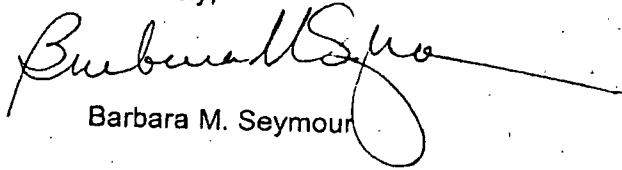
EXHIBIT A-105-1 ~~EXHIBIT A-105-1~~

2004-6592-01333 4 01334

Noel Gray
January 13, 2010
Page Two

We find that the allegations you have raised involve legal matters that would not constitute misconduct or incapacity under these rules and, as such, are not within the jurisdiction of this office. For this reason, your complaint is dismissed pursuant to the provisions of Rule 413-19(a), SCACR.

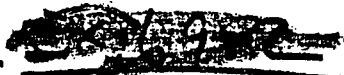
Sincerely,


Barbara M. Seymour

BMS/clg

2004-GS-02-01333 + 01334

(25-12)

~~EXHIBIT #188-2~~ 

Dec. 7, 2009

To whom it may concern.

Hello, my name is Noel Gray #307540.

I'm writing you concerning prejudice against my Attorney Wanda H. Carter Deputy Chief Appellate Defender here in Columbia, Enclosed is a letter I sent to the Disciplinary Counsel on her. My transcripts have been altered and is incomplete. Wanda Carter is supposed to be professional and filed a Johnson Petition on me. And is very Uneffective towards I the petitioner. These Legal Documents are Altered and not reliable for official use. She should have checked this Document to verify it's contents but did not. She is prejudice towards me the petitioner and is ineffective for filing a Johnson Petition and giving me Documents "In which I have a Life with out parole I'm fighting", in which are Illegal and unconstitutional and is Bias towards the petitioner to a Fundamentally Fair Writ of Certiorari. I am respectfully requesting this office to help me out here. My life is on the line. Thank you for your time and help in this matter.

God Bless and

Merry Christmas to

You'll.

Respectfully Yours

Noel Gray #307540

(25-16)

[REDACTED]

[REDACTED]

2004-6522-01333 11-12-211

To whom it may concern,

On December 4th, 2009, I Noel Gray #307590 received my Appendix from Wanda H. Carter, Deputy Chief Appellate Defender. During research of this "Official" Document, I realize this said document is Incomplete, Altered and is not reliable for Official use. There is Serious Misprints/names and Numbers and Dates removed as well as complete lines and pages. This is UnConstitutional and it will deprive me the Plaintiff of a fundamentally fair and Constitutional Writ of Certiorari.

These errors are as followed. P. 29 Ln. 5 / P. 2 Ln. 12 / P. 24 Ln. 0 / P. 7 Ln. 9 / P. 9 Ln. 1 / P. 32 Ln. 21 / P. 33 Ln. 3-16-23 / P. 34 Ln. 18 / P. 40 Ln. 14-15-16-18-21 / P. 44 Ln. 15 / P. 56 Ln. 12 / P. 57 Ln. 21-25 / P. 59 Ln. 18 / P. 61 Ln. 9-24 / P. 62 Ln. 5 / P. 66 Ln. TOP Direct EXAM - Christina Brown / P. 66 Ln. 10-16-18-19 / P. 67 Ln. 11-14 - TOP / P. 68 TOP / P. 69 Ln. TOP-9 / P. 70 TOP / P. 71 TOP / P. 72 TOP / P. 73 TOP / P. 74 TOP / P. 75 TOP / P. 76 TOP / P. 77 TOP / P. 78 TOP / P. 79 TOP / P. 80 TOP / P. 81 TOP / P. 82 TOP / P. 83 TOP-3 / P. 84 TOP / P. 85 TOP / P. 86 TOP / P. 87 TOP / P. 88 Ln. 19 / P. 90 Ln. 1-8-9 / P. 91-92 MISSING / P. 93 Ln. 15 / P. 94 Ln. 9-13 / P. 99 Ln. 9 / P. 101 Ln. 6-17 / P. 102 Ln. 1-9-11-17 / P. 103 Ln. 5-21 / P. 104 Ln. 3-6 / P. 108 Ln. 4 / P. 111 Ln. 4-13-19 / P. 121-122 MISSING / P. 132 Ln. 23-24 / P. 133 Ln. 7-17-25 / P. 134 Ln. 1 / P. 143 Ln. 4 / P. 144 Ln. 3 / P. 151 Ln. 10-11-13 / P. 163 Ln. 11-19-21 / P. 164-165 MISSING / P. 166 Ln. 11-13-16-17-18 / P. 167 Ln. 8-12 / P. 168 Ln. 3-15 / P. 170 Ln. 8 / P. 172-173 MISSING / P. 174 Ln. 4-7-24 / P. 177 Ln. 25 / P. 178 Ln. 22 / P. 179 Ln. 11 / P. 203-250 AS ABOVE / P. 300 Indictments Same as 305.

(25-14)

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO AIKEN COUNTY
DOYET A. EARLY, III, CIRCUIT COURT JUDGE

NOEL GRAY #307590

PETITIONER,

V.

STATE OF SOUTH CAROLINA

RESPONDENT

MOTION TO OPPOSITION TO JOHNSON PETITION

NOEL GRAY #307590

PETITIONER

MURRY # 212

BROAD RIVER CORR. INST.

4460 BROAD RIVER RD.

COLUMBIA, S.C.

29210

(25-11)

(#)

2004-6502-01333 401334

Petitioner hereby states:

1. He the Pro-se Petitioner submits this MOTION IN OPPOSITION TO JOHNSON PETITION; to "GRIEVE" the recient filing of said petition by Wanda H. Carter, because;
2. There are many flagrant Constitutional Violations from throughout his Criminal prosecution that needs to be addressed in the upcoming Writ of Certiorari.

Under the Due Process Clause of the 6th and 14th - Amendments of the United States Constitution, I the Petitioner hereby requests that this Honorable Court deny this said Johnson Petition and allow Ms. Wanda - H. Carter, Deputy Appellate Defender, Attorney of the Petitioner, give him a fundamentally fair Writ of Certiorari and not to abandoned petitioner. Citing: ROSS V. MOFFIT: 417 U.S. 600 (1974); PENNISALVANIA V. FINELY: - 481 U.S. 551 (1987)

RESPECTFULLY SUBMITTED

Noel Gray #307590

NOEL GRAY #307590

MURRY #212

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, S.C.

29210

SWORN AND SUBSCRIBED BEFORE ME THIS

8th day of December, 2009

X Susan J. Johnson (1/5)

NOTARY PUBLIC OF SOUTH CAROLINA My Commission Expires
March 5, 2018

My COMMISSION EXPIRES! _____

(25-12)

()

2004-6622-01333 + 01334

County of Aiken

VERIFICATION

I, Noel Gray A 307590 being truly 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 and correct to the best of my knowledge.

RESPECTFULLY SUBMITTED

Noel Gray #307590

Noel Gray #307590

Sworn and subscribed before me this

8TH day of December, 2009

4 Donald J. Oriskany (L.S.)

Notary Public for South Carolina

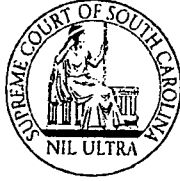
My Commission Expires

My Commission Expires!

August 25, 2015

2004-6502-01333 & 01334

 $(25-13)$



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA
29201
TELEPHONE: (803) 734-1800
FAX (803) 734-0269

December 22, 2009

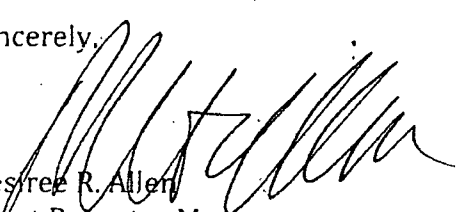
Mr. Noel Gray, #307540
Murray #212
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Dear Mr. Gray:

I am responding to your letter received by me on December 9, 2009. In your letter you are complaining that the transcript is altered and incomplete. This transcript was delivered by the court reporter to your legal counsel. You stated that you received the Appendix on December 4, 2009 from your legal counsel. There is a procedure in place to challenge a transcript.

You should contact your legal representative and determine what further action, if any, will be taken on your behalf concerning this matter. If the transcript was delivered more than 30 days ago, we cannot assist you further in this regard since the court reporter does not have to retain the original records for more than 30 days. Please let me know as soon as possible so that I may assist you. Thank you.

Sincerely,


Desiree R. Allen
Court Reporter Manager

CC: Wanda H. Carter, Esq.
Division of Appellate Defense

(25-7)

2004-6502-01333 + 01334



Division of Appellate Defense
 1330 Lady Street, Suite 401
 Columbia, South Carolina 29201-3332
 Post Office Box 11589
 Columbia, South Carolina 29211-1589
 Telephone: (803) 734-1330
 Facsimile: (803) 734-1367

Robert M. Dudek, Acting Chief Appellate Defender
 Wanda H. Carter, Deputy Chief Appellate Defender
 Joseph L. Savitz, III, Senior Appellate Defender

December 30, 2009

The Honorable Daniel E. Shearouse
 Clerk, S.C. Supreme Court
 PO Box 11330
 Columbia, SC 29211

Re: Noel Gray v. State of South Carolina

Dear Mr. Shearouse:

Enclosed are an original and six copies of the Petition for Leave to Obtain Court Reporter's Tapes in the above-captioned case. Thank you for your assistance in this matter.

Sincerely,

Wanda H. Carter
 Deputy Chief Appellate Defender

WHC/mwl

Enclosure

cc: Mary S. Williams, Esquire
 Mr. Noel Gray

2004-6502-01333 + 01334

(25-8)

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~ ~~CONFIDENTIAL~~

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

NOEL GRAY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

PETITION FOR LEAVE TO
OBTAIN COURT REPORTER'S TAPES

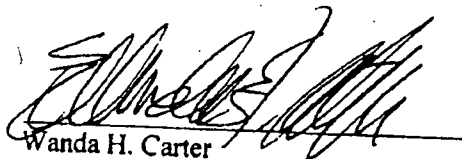
Pursuant to Rule 224 of the South Carolina Appellate Court Rules, the undersigned counsel, per petitioner's complaints, requests leave in which to obtain the trial court reporter's tapes in the above titled case. In support of this motion, counsel submits a reproduction of petitioner's correspondence to court administration regarding what is missing from the transcript as attached.

WHEREFORE, counsel requests leave to obtain the court reporter's tapes in this case per petitioner's complaints.

2012-05-22-01333 2-01334

EXHIBIT H [REDACTED] 4-2-2

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

Attorney for Petitioner

December 30, 2009

2004-6302-01333-01334

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

NOEL GRAY,

PETITIONER,

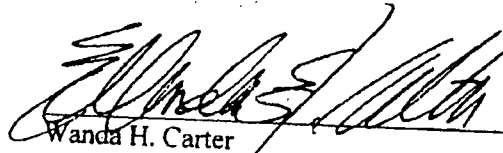
v.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Leave to Obtain Court Reporter's Tapes in the above referenced case has been served upon opposing counsel, on Mary S. Williams, Esquire, and Noel Gray, Jr., #307590, Broad River Correctional Institution this 30th day of December, 2009.



Wanda H. Carter
Deputy Chief Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me
this 30th day of December, 2009.

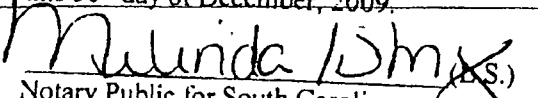
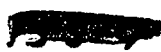

(S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2018

EXHIBIT # 



2004-6502-01333-01334



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Acting Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

January 8, 2010

Mr. Noel Gray #307590
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Your case

Dear Mr. Gray:

Please specify which pages are incorrect and what is specifically wrong with the indictments. I filed an Johnson petition in your case. This means that I did not find any legal issues of merit in your appeal, but I wanted the Court to review your case independently as a check and balance to make sure that I did not overlook any errors in your case. Therefore, the Johnson petition protects your right to full appellate review, and all of your issues will be reviewed. I will contact you as soon as the Court issues an opinion in your case. If I have missed an issue in your case, the Court will contact me and I will in turn contact you. Also, you can file your own pro se brief in the case.

Sincerely,

Wanda H. Carter

Wanda H. Carter
Deputy Chief Appellate Defender

WHC/mwl

2004-6302-01333 401334

The Supreme Court of South Carolina

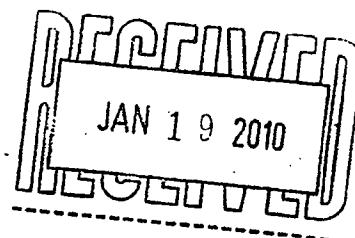
Noel Gray, Jr.,

Petitioner,

v.

State of South Carolina,

Respondent.



ORDER

Counsel for petitioner moves, at petitioner's behest, for leave to obtain the court reporter's tapes from petitioner's trial. Counsel's request is based on a letter from petitioner to South Carolina Court Administration in which he complains about errors in the trial transcript, specifically, missing names and numbers, misprints and incomplete lines and pages. The motion is denied. The missing portions of the transcript are redactions required by order of this Court. See In re: Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings, 375 S.C. 56, 650 S.E.2d 462 (2007).

IT IS SO ORDERED.

C. J.

Columbia, South Carolina

FOR THE COURT

January 19, 2010

cc: Deputy Chief Appellate Defender Wanda H. Carter
 Noel Gray #307590
 Assistant Attorney General Mary S. Williams

2004-6502-01333 + 01334

Noel Gray #307590

Murry #212

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, S.C. 29210

January 23, 2010

Honorable Daniel E. Shearouse, Esq.

CLERK OF COURT S.C. Supreme Court

P.O. Box 11330

Columbia, S.C. 29211

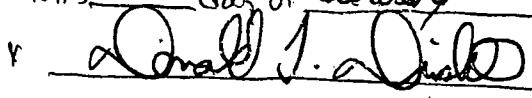
RE: State U. Gray,

Dear Mr. Shearouse,

On January 20, 2010, I recieved from the South Carolina Supreme Court, an "Order" in the case referenced above.

The Application of In Re: Interim Guidance Regarding Personal Data Identifiers, 375 S.C. 56, 650 S.E. 2d 462 (2007), denies me of a "Fundamentally-Fair" Certiorari, because substantial block of "Furtrint" information are obmitted. The Redaction of entire lines and pages from Transcript/Appendix, is extremely prejudicial and because vital Information is lost and the continuity of the record is sacrificed. Therefore this said order violates my 6th and 14th Amendment of the united States Constitution. And Due Process.

Sworn and Subscribed before me

this 25TH day of January, 2010


Notary Public for South Carolina My Commission Expires August 25, 2015

my Commission Expires: _____

Sincerely, Yours

Noel Gray #307590

Pro-Se Petitioner

6502-01333 + 01334
2007-

MISSING VITAL INFORMATION

1. App.p. 121-122, Dr. Lisa Bethea, Direct Exam Ms. Brisbin - Physical Exam Normal - Shows petitioners Innocence extremely Prejudicial if removed.
2. App.p. 164-165, closing Arguments Solicitor Chandler "Prejudice Remarks towards Jury about petitioner 'Prosecutorial Misconduct' and Using Unfair Prosecutorial Tactics in which is UnConstitutional and Bias towards petitioner extremely prejudicial if removed.
3. App.p. 172-173, closing Arguments Solicitor Chandler same as (164-165)
4. App.p. 301-302 Are the Same, Indictments
5. App.p. 299 is same as App.p. 304
6. App.p. 305 / 1333 (No 1334 printed)
7. App.p. 91-92 Mike Williams Direct Exam, Inconsistent Statements used as consistent in Cross-Exam. Extremely Prejudicial if removed.

These missing pages are extremely vital to the petitioners case. And would be a grave miscarriage of Justice if allowed to be redacted. And is UnConstitutional under the 6th and 14th Amendment of the United States Constitution. And it will deny the petitioner of a Fundamentally Full and Fair Cettlorari and his Due Process of Rights under the Equal of Protection of Law Clause.

The Supreme Court of South Carolina

Noel Gray, Jr.,

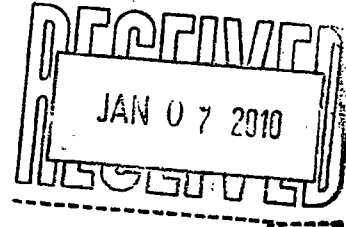
Petitioner,

v.

State of South Carolina,

Respondent.

ORDER



Counsel for petitioner has filed a petition for a writ of certiorari, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), from the denial of petitioner's application for post-conviction relief. Petitioner has filed a pro se motion in opposition to the Johnson petition. Therein, petitioner asks that this Court refuse to accept the Johnson petition and require counsel to file a "fair" petition for a writ of certiorari on petitioner's behalf.¹ The motion is denied. Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308, 77 L.Ed.2d 987 (1983)(appellate counsel must be allowed to exercise reasonable professional judgment in determining which non-frivolous issues to raise on direct appeal). Pursuant to the procedure set forth in Johnson v.

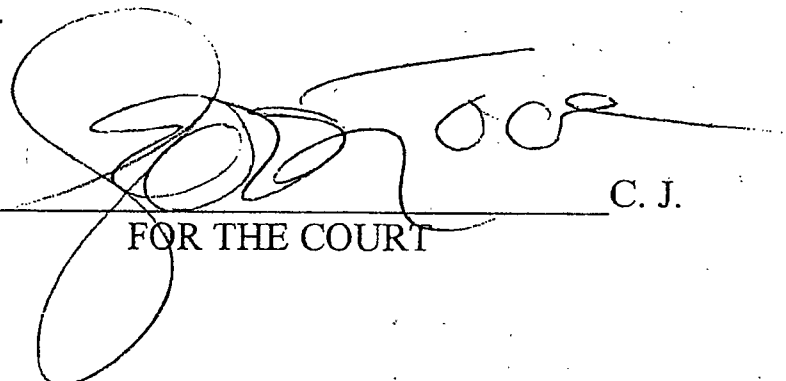
State, supra, this Court will review the entire record in this matter for any

¹ Petitioner actually requests that the Court "deny" the petition; however, because such action would deny petitioner relief, we have construed his request as a request not to accept the Johnson petition.

2004-6502-01333 & 01334

error. In addition, petitioner is entitled to file a pro se response to the Johnson petition, which he has done.

IT IS SO ORDERED.



FOR THE COURT C. J.

Columbia, South Carolina

January 7, 2010

cc: Deputy Chief Appellate Defender Wanda H. Carter
Noel Gray #307590
Assistant Attorney General Mary S. Williams

2004-6522-0/333 + 0/334

**SCCID**

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

February 4, 2010

Mr. Noel Gray, Jr. #307590
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Your appeal

Dear Mr. Gray:

Enclosed please find a copy of the appendix. We understood from the Supreme Court that you were missing some of the pages in this appendix. Keep in mind that some pages have information that has been whited out pursuant to the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings." This is a requirement before we can file any documentation with the Court.

Should you have any questions concerning this matter, please contact me.

Sincerely,

Wanda H. Carter
Deputy Chief Appellate Defender

WHC(mwl)

Enclosures

2004-6502 - 0/333 + 0/334

The Supreme Court of South Carolina

Noel Gray, Jr.,

Petitioner,

v.

State of South Carolina,

Respondent.

ORDER

Counsel for petitioner recently filed a motion for leave to obtain the court reporter's tapes from petitioner's trial. Counsel's request was based on a letter from petitioner to South Carolina Court Administration in which he complained about errors in the trial transcript, specifically, missing names and numbers, misprints and incomplete lines and pages. The motion was denied because the missing portions of the transcript are redactions required by order of this Court. See In re: Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings, 375 S.C. 56, 650 S.E.2d 462 (2007).

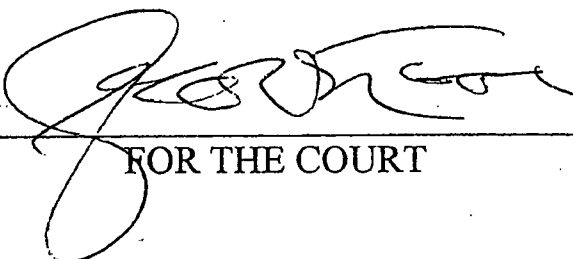
Petitioner has now written a letter to the Clerk of Court in which ~~he complains that certain pages are missing from the transcript. We have~~ construed the letter as a petition for rehearing of our earlier order. The Clerk of Court contacted petitioner's counsel about the missing pages and counsel

~~EXHIBIT A~~ ~~48-1~~ 48-1

2004-6502-01333 + 01334

has now submitted a corrected appendix containing the missing pages, which she has also served on petitioner. Accordingly, we deny the petition for rehearing as moot.

IT IS SO ORDERED.


C. J.
FOR THE COURT

Columbia, South Carolina

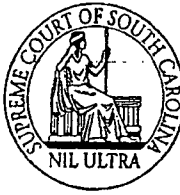
February 4, 2010

cc: Deputy Chief Appellate Defender Wanda H. Carter
Noel Gray #307590
Assistant Attorney General Mary S. Williams

2004-6502-0/333 & 0/334

~~EXHIBIT #~~

~~48.2~~



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 2, 2010

Deputy Chief Appellate Defender Wanda H. Carter
South Carolina Commission on Indigent Defense
P O Box 11589
Columbia, SC 29211

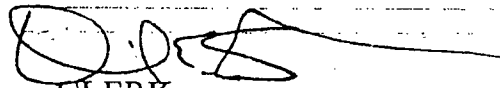
Re: Gray, Noel Jr. v. The State

Dear Counsel:

Enclosed is the Order denying your Petition for Writ of Certiorari and granting your Petition to be Relieved as Counsel in the above entitled matter.

The remittitur will be sent to the lower court as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,


CLERK

DES/jj

cc: Noel Gray #307590
Assistant Attorney General Mary S. Williams

(EXHIBIT 7)

2004-6502-01333 + 01334

The Supreme Court of South Carolina

Noel Gray, Jr.,

Petitioner,

v.

State of South Carolina,

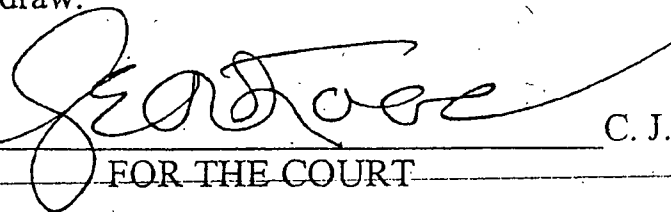
Respondent.

ORDER

This matter is before the Court on a petition for a writ of certiorari following the denial of petitioner's application for post-conviction relief.

Petitioner's counsel asserts that the petition is without merit and requests permission to withdraw from further representation. Petitioner has responded *pro se*.

After careful consideration of the entire record as required by *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988), we deny the petition and grant counsel's request to withdraw.

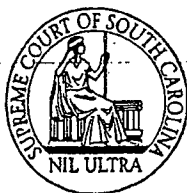
 C. J.
FOR THE COURT

Columbia, South Carolina

December 2, 2010

(EXHIBIT 8)

2004-6502-01333 + 01334



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 21, 2010

REMITTITUR

The Honorable Liz Godard
109 Park Ave
PO Box 583
Aiken, SC 29802-0583

Re: Gray, Noel Jr. v. The State – 2008-CP-02-00734

Dear Mrs. Godard:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Very truly yours,

CLERK

DES/jj

cc: Deputy Chief Appellate Defender Wanda H. Carter
Noel Gray #307590
Assistant Attorney General Mary S. Williams

(EXHIBIT 9)

2004-65-02-01333 + 01334

480

C/m
12/4/2012



State of South Carolina
The Circuit Court of the Second Judicial Circuit

Doyet A. Early, III
Judge

Post Office Box 90
Bamberg, SC 29003
Phone: (803) 245-4004
Fax: (803) 245-2983
dearlyj@sccourts.org

November 30, 2012

The Honorable Liz Godard
PO Box 583
109 Park Avenue
Aiken, SC 29802

F718991 - 2004-GS-02-01333
F718990 - 2004-GS-02-01334

RE: Form Order for *Noel Gray v. State of South Carolina*

Dear Ms. Godard:

Please find enclosed a Form Order for the case *Noel Gray v. State of South Carolina* (2004-GS-02-1333/1334). The defendant's Motion for a New Trial has been denied and the Motion for Appointment of Counsel has been denied. Please file with the court and make copies available to all parties.

Sincerely,

Adam C. Ness, Esq.
Law Clerk for Judge Doyet Early, III

Copies: Mr. Gray
Solicitor
P. Defendant

FILED December 4 2012
Bamberg
Liz Godard
/BW

COUNTY OF AIKEN

Case No.: 2004-GS-02-1333/1334

F718991 F718990

Plaintiff

Defendant

Noel Gray

Versus

State of South Carolina

CHECK ONE:

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and the verdict has been rendered.
- ☒ DECISION BY COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. nonsuit)
☐ Rule 43(k), SCRPC(Settled); ☐ Other -
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding Arbitration,
 Subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☒ Statement of Judgment by Court

After careful consideration, Petitioner's Motion for a New Trial and Motion for Appointment of Counsel are respectfully DENIED.

Dated at Bamberg, South Carolina, Date Nov 30, 2012 Judge T. H. E. E. E.

This judgment was entered on the _____ Day of _____, 20____, and a copy mailed this _____ Day of _____, 20____, to attorneys of record or to parties as follows:

Attorney(s) for Plaintiff

Attorney(s) for Defendant

Noel Gray
 SCDC # 307590
 Broad River Correctional Inst.
 4460 Broad River Road
 Columbia, SC 29211

Copies
 Mr. Gray
 Solicitor
 P. Defender

FILED December 4 2012
Th. H. E. E.
11/30/12

48
December 10 2012
FILED
L. E. Gaddard
VCCCPJMS
L. E. Gaddard
VCCCPJMS

C/M
12/10/2012

DEC. 05 2012

Noel E. Gray Jr. #307590
B.R.C.I. Murray #212B
4460 Broad River Rd.
Columbia, S.C. 29210

DECEMBER 4, 2012

Attention: Honorable Clerk

RE: NOTICE OF INTENT TO APPEAL

NOEL E. GRAY, JR #307590

2004-GS-02-1333-1334

F718991' F718990

Dear Honorable Clerk:

Please find enclosed copies of Notice of Intent to Appeal, Petitioner's Rule 29(b) Motion for New Trial based on Newly/After Discovered Evidence that was within the One year Statute of Limitations as pursuant to Rule 29(b) of the South Carolina Rules of General Sessions "Criminal Procedures"

November 30, 2012 Honorable D.A. Early, III Circuit Court Judge denied Appellants Motion for New Trial and denied Motion for Appr. of Counsel.

Please Send a clock Stamp Copy back to the Appellant Thank you!

Copies: P. Defender
Solicitor
Judge Early
Mr. Gray

Sincerely
Noel E. Gray Jr. #307590
Noel E. Gray Jr.
Pro-se Appellant.

DEC. 05 2012

NOTICE OF INTENT TO APPEAL
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
FROM AIKEN COUNTY
THE HONORABLE D.A. EARLY, III

DECEMBER 4, 2012

INDICMENT # 2004-GS-02-1333-1334

F718991

F718990

THE STATE OF SOUTH CAROLINA -- Respondent

VS.

Noel E. Gray, Jr. # 307590 -- Appellant

NOTICE OF INTENT TO APPEAL

The Appellant filed a Rule 59(b) Motion For New Trial Based on Newly / After Discovered Evidence according to the Rule 29(b) Rules of Criminal Procedures of South Carolina, on September 17, 2012.

The Newly Discovered Evidence was within the One(1) year Statute of Limitations and met all the elements to support a New Trial based on Ineffective Assistance of Trial Counsel.

November 30, 2012 the Honorable D.A. Early, III denied both Motion's for New Trial and Appointment of Counsel.

The Appellant Appeals his Unconstitutional Denial of Due Process, and Request Appointment of Appellate Counsel.

Noel E. Gray Jr. #307590
Noel E. Gray Jr.
Pro-Se Appellant

FILED
December 10 2012
L. H. Hurd
Clerk of Court
Aiken County, SC

Notice of Intent To Appeal
State of South Carolina
vs.

Noel E. Gray Jr. #307550

2004-GS-02-1333-1334.

F718991 - F718990

CERTIFICATE OF SERVICE

I Noel Gray do hereby certify that I have this day served the Original of Appellant's Notice of Appeal upon the South Carolina Court of Appeals and Copies of Appellant's Notice of Intent to Appeal to the Clerk of Court of Aiken County, and to Mr. Strom Thurmond Jr. Solicitor, Second Judicial Circuit, by placing Same in the United States Mail properly addressed and with correct postage affixed thereto:

- 1) South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211
- 2) South Carolina Commission of Appellate Defense
Suite 306
1205 Pendleton St.
Columbia, S.C. 29202
- 3) Clerk of Court
Aiken County Judicial Circuit
P.O. Box 583
Aiken, S.C. 29802
- 4) Mr. Strom Thurmond Jr. Solicitor
Second Judicial Circuit
PO Box 3368
Aiken, S.C. 29802

Dated this 5th day of February, 2012

Noel E. Gray Jr. #307550
Noel E. Gray Jr.
Pro-Se Appellant
BRIE. Murray 212-B
4460 Broad River Rd.
Columbia, S.C. 29210



State of South Carolina
The Circuit Court of the Second Judicial Circuit

D.A. Early, III
Judge

Post Office Box 90
Bamberg, SC 29003
Phone: (803) 245-4004
Fax: (803) 245-2983
dearlyj@sccourts.org

November 30, 2012

Noel Gray
SCDC # 307590
Broad River Correctional Inst.
4460 Broad River Road
Columbia, SC 29211

Re: 2004-GS-02-1333/1334

F718991 F718990

Dear Mr. Gray:

I have reviewed the record, as well as all submitted documents. First, regarding your **Motion for a New Trial**, the motion is **DENIED**. Second, regarding your **Motion for Appt. of Counsel**, the motion is **DENIED**.

Sincerely,

The Honorable D.A. Early, III
Circuit Court Judge

FILED December 10 2012
[Signature]
[Signature] /CSW

Joel Gray #307590
 Murray #
 Broad River Court Inst.
 1460 Broad River Rd.
 Columbia, S.C.
 29210

C/M
 12/10/2012

2004 - GS-02-01333 - F718991
 2004 - GS-02-01334 F718990

Clerk of Court
 Aiken County Judicial Circuit
 PO Box 583
 Aiken, S.C.
 29802



RECEIVED

NOV 15 2012
 3:01
 CLERK OF COURT

FILED December 10, 2012
 [Signature]
 [Signature] /CSW

FORM 5

STATE OF SOUTH CAROLINA

County of AIKENNOEL EUGENE GRAY JR. # 307590

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

F718991
718990

APPLICATION FOR

POST-CONVICTION RELIEF

2011 CP-02 02776
2004 OS-02 1333, 1334
Filed 12.9.2011
C.C.P. & G.S. Aiken County
Deputy Clerk
Trial Judge: Richard H. Hight
Trial Atty: Robert H. Hight
Court Reporter: Trudie S. Hight
Sec. PCB: Patricia Hight
General Sessions: Patricia Hight
Appointed Atty: Patricia Hight

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 BROAD RIVER CORRECTIONAL INSTITUTION
4460 BROAD RIVER RD. COLUMBIA, S.C. 29210
2. Name and location of Court which imposed sentence SECOND JUDICIAL CIRCUIT
COURT AIKEN, S.C. 29802
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) 2004-63-02-1333
 - (b) 2004-65-02-1334

(C) N/A

5. Date upon sentence was imposed and the terms of the sentence:

(a) FEBRUARY 2, 2005 L.W.O.P. S.C. Code Ann. § 17-25-45 Recidivist Statute

(b) Same as above

6. Check whether a finding of guilty was made:

(b) after a plea of not guilty

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES

8. Yes to 7 list:

(a) name of each court to which you appealed.

i. S.C. COURT OF APPEALS

ii. POST CONVICTION RELIEF P.C.R.

iii. S.C. STATE SUPREME COURT WRIT OF CERTIORARI

iiii. UNITED STATES DISTRICT COURT FEDERAL HABEAS CORPUS

(b) result in each court you appealed:

i. (Anders) Unpublished Opinion

ii. Dismissed with Prejudice

iii. Dismissed (Johnson Petition)

iiii. Active

(c) Date of each result:

i. JANUARY 11, 2008

ii. APRIL 9, 2009

iii. DECEMBER 2, 2010

iiii. Active

(D) Citations of any written opinion or orders entered pursuant to each result:

i. unpublished opinion ANDERS

ii. Dismissed with Prejudice

iii. Dismissed JOHNSON

iiii. Active

(9) N/A

- (c) N/A
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) NEWLY DISCOVERED EVIDENCE
- (b) INEFFECTIVE ASSISTANCE OF P.C.R. COUNSEL
- (c) INEFFECTIVE ASSISTANCE OF P.C.R. COUNSEL ON COLLATERAL APPEAL (P.C.R.)
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) TO EXTENSIVE TO LIST (SEE ATTACHMENTS)
- (b) TO EXTENSIVE TO LIST (SEE ATTACHMENTS)
- (c) TO EXTENSIVE TO LIST (SEE ATTACHMENTS)
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? YES
- (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? YES
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. DIRECT APPEAL
- ii. WRIT OF CERTIORARI
- iii. P.C.R.
- iv. FEDERAL HABEAS CORPUS
- (b) the name and location of the Court in which each was filed:
- i. S.C. DIRECT APPEALS COURT COLUMBIA, S.C.
- ii. S.C. STATE SUPREME COURT COLUMBIA, S.C.
- iii. AIKEN COUNTY 2nd JUDICIAL CIRCUIT COURT AIKEN, S.C.
- iv. UNITED STATES DISTRICT COURT (FEDERAL) FLORENCE, S.C.

(c) the disposition thereof:

- i. DISMISSED ANDERES
- ii. DISMISSED
- iii. DISMISSED
- iv. ACTIVE

(d) the date of each such disposition:

- i. JANUARY 11, 2008
- ii. APRIL 9, 2009
- iii. DECEMBER 2, 2010
- iv. ACTIVE

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

- i. NA
- ii. NA
- iii. NA
- iv. NA

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?

Yes.

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

(a) which grounds have been presented:

- i. I.A.O.A. INTERSTATE AGREEMENT ON DETAINERS ACT.
- ii. SUBJECT MATTER JURISDICTION
- iii. INVESTIGATIVE ASSISTANCE OF TRIAL COUNSEL

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

- i. DIRECT APPEAL
- ii. P.C.R.
- iii. WRIT OF CERTIORARI
- iiii. FEDERAL HABEAS CORPUS

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) NEWLY DISCOVERED EVIDENCE
 (b) NUMEROUS PROCEDURAL IRREGULARITIES / INEFFECTIVE ASSISTANCE OF P.L.A. COUNSEL
 (c) INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL COLLATERAL ATTACK (P.C.R.)

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

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

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. N/A
 - ii. KELLY PERKINS BROWN ESQ. P.O. DRAWER 2247 Aiken, S.C. 29802
410 BARNWELL AVE. N.W.
 - iii. ELEANOR DUFFY CLEARY P.O. Box 11589 COLUMBIA, S.C. 29211-1589
1330 LAOY ST. SUITE 401 (See Attachment S.B.)
- (b) the proceedings at which each such attorney represented you:
- i. N/A
 - ii. TRIAL
 - iii. DIRECT APPEAL

19.

(a)

iiii. BRADLEY L. BORN ESQ. P.O. BOX 1424 Aiken, S.C. 29802 (P.C.R.)

iiii. WANDA H. CARTER ESQ. APPELLATE DEFENSE, P.O. BOX 11589
COLUMBIA, S.C. 29211-1589

(B)

iiii. POST CONVICTION RELIEF (P.C.R.)

iiii. WRIT OF CERTIORARI

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

VACATION OF CONVICTION AND SENTENCE PURSUANT TO VIOLATED FEDERAL I.A.D. A CONTR
REVERSE AND REMAND FOR NEW TRIAL

(ALTERNATIVE) RECONSIDERATION OF PLEA AGREEMENT "LESSER INCLUDED OFFENSE"

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

NO

STATE OF SOUTH CAROLINA)

County of AIKEN)

VERIFICATION

I, Noel E. Gray Jr.

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.

Noel E. Gray Jr. #307590

SWORN to and subscribed before me this 7th
 day of December 2011.

Susan H. Frye (L.S.)
 Notary Public

My Commission Expires: _____

My Commission Expires
 March 5, 2018

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

I, Noel Gray #307590, 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.

Noel E. Gray Jr #307590
Applicant

SWORN or affirmed to and subscribed before me this
7th day of December, 2011.

Susan N. Frye
Notary Public
My Commission Expires
March 5, 2018

My Commission Expires: _____

THE STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

NOEL GRAY #307590

CASE NO-

V.

) MEMORANDUM OF FACTS AND LAW

) IN SUPPORT OF POST CONVICTION RELIEF

THE STATE OF SOUTH CAROLINA) APPLICATION BROUGHT PURSUANT TO:S.C. Code Ann. § 17-27-20 - § 17-27-160

COME NOW Noel Gray #307590, Pro-Per, herein after, applicant seeking relief in this Court, pursuant to S.C. Code Ann. § 17-27-20 through § 17-27-160 claiming that his Constitutional Rights were violated at trial including, but not limited to his Sixth (6th) Amendment and Furthermore, that his Fourteenth (14th) Amendment Right to a fair Trial was violated as well. This being protected by the Due Process Clause.

Applicant, through the issue's presented and citations of authorities relied on, will show unto this Court, Applicants entitlement to the requested relief herein.

I

SUCCESSIVE

Applicant did raise Ineffective Assistance Of Trial Counsel, Appellate Counsel and Prosecutorial Miscarriage, but these issues were not fully presented, heard and determined, S.C. Code Ann. § 17-27-90, ("even the intelligent and educated layman has small and sometimes, no skill in the science of law"). POWELL V. ALABAMA, 287 U.S. 45, - 68-69 (1932); GIDEON V. WAINWRIGHT, 372 U.S. 335, 83 S.Ct. 792 - (1963).

Whether this applicants application is considered Successive or not, LAND V. STATE, 274 S.C. 243, 262 S.E. 2d 735 (1980); State and Federal due process, as well as South Carolina Case law, require that the applicant has the opportunity to present his issues fully, at least one (1) time AICE V. STATE, 305 S.C. 448, 409 S.E. 2d 392 (1991); AUSTIN V. STATE, - 305 S.C. 453, 409 S.E. 2d 395 (1991).

Applicant has not had one (1) complete "bite" at the apple, due to Procedural Defects and Irregularities, beginning, in review, with P.C.R. Court, WASHINGTON V. STATE, 324 S.C. 232, 478 S.E. 2d 533 (1995).

At P.C.R. whether it was in the applicants best interest to present evidence or call the list of witnesses via, George Bush Esq.; Investigator's Tim Randall; New Ray and David Blivins; and Dr. Betha, et. al.

Counsel's presence alone was not necessary for proper representation to ensure a good record in this case and to protect applicants Constitutional rights. Denied the applicant the ability to present any competent or probative evidence, regarding his allegations, accordingly, the Court will find that the applicant waived such allegations and failed to meet his burden of proof regarding them S.C.R. Civ. P. 71(e).

A factual matter for which fundamental fairness would justify an evidentiary hearing.

Moreover, P.C.R. Counsel also denied applicant's Motion to Alter or Amend judgment pursuant to Rule 59(e), S.C.R.C.P., or submit a proper order. The matters and issues raised within this application would, at least, be part of the record. A.P.C.R. Order must be thoroughly explicated, MARLOR V. STATE, 653 S.E.2d 266 (2007); BOSTICK V. STEVENSON - 589 F.3d 160 (2009). (Counsel has a obligation to review the order and file a Rule 59(e) a South Carolina Law Requirement.

On the other hand, when an applicant is not assisted by a Post Conviction Attorney in setting forth all grounds to support his claim of Ineffective Assistance of Trial Counsel in his initial application, therefore, applicant in this case, should not be barred, thereafter, from submitting a second application to include additional grounds for the Courts review.

To be clear, applicant is not Pro-Per, claiming intentional wrong doing by anyone, nevertheless, there has been a serious amount of events that when added together, compromise the issue of due process under the United States and South Carolina Constitution, BROWN V. LEE, 319 F.3d 162, - 169 (4th Cir. 2003), ("to thwart Federal Habeas Corpus Review of Constitutional issues that the "adequacy" requirement was designed to prevent") Id. 319 F.3d at 170.

Applicant does believe that he can submit documents relating to his case or could Motion to Alter or Amend the Courts ruling. However, as a procedural rule, a client's hands are tied because of South Carolina Law (firm standing) against hybrid representation when counsel had been appointed, FOSTER V. STATE, 379 S.E.2d 907 (S.C. 1989), (litigant filed Pro-Per seeking relief of counsel or pursuant to procedures established by ANDERS V. CALIFORNIA, 386 U.S. 788, 87 S.Ct. 1396 (1967); STATE V. STUCKEY - 333 S.C. 56, 508 S.E.2d. 564 (1998). No right under the South Carolina -

Constitution to hybrid representation, STATE V. SANDERS, 269 S.C. - 215, 237 S.E. 2d 53 (1997). Any substantive document filed Pro-Per by a person represented by counsel are not accepted unless submitted by counsel, COLEMAN V. THOMAS, 501 U.S. 722, 750, 111 S.Ct. 2546 - (1991). (fundamental miscarriage of Justice resulting from failure to comply with applicable rule).

In review of applicants procedural history where applicants obligation to file Pro-Per, was with reasonable diligence and promptness, however, as a result, these claims in his Pro-Per application, or at the evidentiary hearing, as a result, these grounds were not heard or ruled upon, even though they could have resulted in the applicant being granted a new trial.

Counsel's inadvertent mistake, where counsel is aware of a claim or of the duty to raise it at a particular time, the Successive Rule, S.C. Code Ann. § 17-27-90, LAND V. STATE, 274 S.C. - 243, 262 S.E. 2d 735 (1980). cannot operate as a specific deterrent to noncompliance with the State procedural Rule, for these sufficient reasons, applicant should be granted a new hearing.

II

TIMELINESS

Next, the applicant will respectfully submit, that this application should not be summarily dismissed for failure to comply with the filing procedures of the Uniform Post Conviction Procedure Act S.C. Code Ann. § 17-27-45(a).

The applicant incorporates, herein, as reference to the following Procedural History; infra.

- 1) Trial date January 31 - February 2, 2005 ;
- 2) Notice of Intent to Appeal / February 7, 2005 (Exhibits # 1-3) ;
- 3) S.C. Court of Appeals Unpublished Opinion January 11, 2008 - (Exhibit #4.) ;
- 4) Remittitur January 30, 2008 (Exhibit # 5) ;
- 5) Application for Post Conviction Relief April 18, 2008 ;
- 6) Order of Dismissal April 6, 2009 ;
- 7) Notice of Appeal May 4, 2009 ;
- 8) Order denying Petition for Writ of Certiorari December 2, 2010 (Exhibits # 7-9) ;
- 9) Federal Habeas Corpus submitted January 27, 2011.

Therefore, applicants time is roll and this action is ripe for review.

III

NEWLY DISCOVERED EVIDENCE

A:

Pursuant to South Carolina Rule of Civil Procedure S.C.R. Civ. P. Rule 60(b)(2) and pursuant to S.C. Code Ann. § 17-27-45(c), the applicant presents to this court NEWLY DISCOVERED EVIDENCE (Exhibit # 30)

A party making a Motion for a new trial or for relief from Judgement based on Newly Discovered Evidence must show that the evidence (1) Will probably change the result if a new trial is granted; (2) Has been discovered since the trial; (3) Could not have been discovered before the -

trial; (4) Is material to the issue; (5) Is not merely cumulative or impeaching; LANIER V. LANIER, 364 S.C. 211, 612 S.E. 2d 456 (S.C. App. 2005).

Trial Counsel failed to record any statements (in writing, or by audio or video), from any conversation with any neighbors or any one who knew Mike Williams, a critical State witness, so as to hold Mike Williams to standard of consistency at trial. New "reliable eye-witness" Jackie Blackwood is one of the witnesses who could unequivocally show that Mike Williams had a motive to lie, and protect one Linda Brown. More importantly, trial counsel could have disclosed the hidden vendetta against the applicant to clear himself and Linda Brown for their alleged foul conduct against Minor.

Trial Counsel failed to interview any known acquaintances of Linda Brown and Mike Williams to authenticate or disprove what they told the police and the jury.

Trial Counsel failed to interview Mike Williams, (Linda Brown's lover), or at least disclose any evidence of bad blood against applicant and evidence of bad blood between Linda Brown and applicant, STATE V. SCHMIDT, P. No. 2251 (S.C. State S. Ct. 1986) "evidence concerning Hard feelings" between child's family and defendant is relevant Reverse and Remanded for new trial.

Trial Counsel failed to conduct an interview with any other occupants that lived within Mike Williams residence before, during, and after the alleged incidents, to gather salient information concerning the alleged victim and Mike Williams, and his relationship with her and the nature of that relationship in particular.

Trial Counsel failed to conduct any meaningful investigation of the total circumstance surrounding the living situation at Mike Williams residence and any "eye witnesses", to sort out facts, omission and unexplained inconsistencies and inaccuracies in his story to the police and in his trial testimony including, but not limited to: —