

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Oconee County

RECEIVED

Honorable R. Scott Sprouse, Circuit Court Judge

APR 16 2019

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RANDALL SCOTT CLARK,

APPELLANT

APPELLATE CASE NO. 2018-000829

RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

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1 State of South Carolina
 2 County of Oconee In the Court of General Sessions

4 State of South Carolina,)
 5) 2018-GS-37-00600
 6 -vs-) April 16, 2018
 7 Randall Scott Clark,)
 8 Defendant.)
 9) Transcript of Record
) Plea & Sentencing

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B E F O R E:

The Honorable R. Scott Sprouse, Judge

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

Lindsey Simmons, Esquire
 Tenth Circuit Solicitor's Office
 Attorney for the State

Suzanne Earle, Esquire
 Tenth Circuit Public Defender's Office
 Attorney for Defendant

Diane L. Marcengill, RPR, CRR, CRC
 Circuit Court Reporter

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at 4:26 p.m.)

4 MS. SIMMONS: Randal Clark here on 2018-GS-37-600,
5 which is a direct presentment for assault and battery
6 second degree --- I'm sorry, Judge, waiver of
7 presentment.

8 This plea is straight-up, Your Honor, and the
9 State will be arguing for sex offender registry.
10 Ms. King did send the victim a letter in this case, and
11 they are not present.

12 THE COURT: Okay.

13 MS. SIMMONS: And the officer would like for me to
14 share his thoughts.

15 (WHEREUPON, the defendant was sworn.)

16 THE COURT: All right. You're Randall Scott
17 Clark; is that correct, sir?

18 THE DEFENDANT: Yes, sir. Yes, Your Honor.

19 THE COURT: You are charged with assault and
20 battery second degree, carries up to three years. You
21 have heard from the solicitor that this is a
22 straight-up plea, meaning that the State may ask for
23 the maximum sentence, just like your attorney may ask
24 for something in the alternative. Like any sentence,
25 ultimately, it's up to the court to determine what the

1 appropriate sentence should be.

2 Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: With that knowledge, how do you plead
5 to assault and battery second degree?

6 THE DEFENDANT: Guilty.

7 THE COURT: Are you pleading guilty of your own
8 free will?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Are you under the influence of any
11 alcohol, drugs, or anything that might affect your
12 judgment today?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: When you plead guilty, you give up
15 rights that you have. You have a right to a trial by
16 jury with a unanimous jury verdict. You have a right
17 to call witnesses on your behalf. You have a right to
18 confront the witnesses who are against you. You have a
19 right to remain silent, and that can't be held against
20 you. You also would have an opportunity to present any
21 defenses that you might have to the charge.

22 Do you understand those rights?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Are you -- you understand that you are
25 presumed innocent and the State would have the burden

1 of proving you guilty beyond a reasonable doubt?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: You have been represented by Ms. Earle
4 in this case. Have you had enough time to talk to her?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Has she answered your questions?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you have any questions for her now?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Are you completely satisfied with her
11 services?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right.

14 Ms. Simmons, tell me about it.

15 MS. SIMMONS: Judge, for the purpose of the
16 statute, this would be an inappropriate touching of the
17 private parts of a female in order to satisfy assault
18 and battery second degree. Your Honor, that did occur
19 in Oconee County.

20 Just to give you the background for purposes of
21 the State's argument for a registry and the officer's
22 argument, the victim's dad approached the sheriff's
23 office and thought his daughter was the victim of a
24 sexual -- of sexual abuse. He said he had been
25 contacted by his ex-wife, saying something is not right

1 between her daughter and the ex-wife's boyfriend.
2 Mr. Clark was the boyfriend of the victim's mother at
3 the time this went on. He was 25 years old and the
4 victim was 12.

5 The victim advised in this case that she had had
6 sexual activity with Mr. Clark on three separate
7 occasions between January 1st, 2016, and July 1st,
8 2016, here in Oconee County.

9 The first incident involved kissing and touching,
10 then the victim advises the third incident involved
11 both intercourse and discussion she might be pregnant.
12 The victim said that Carter approached her and she went
13 along with the sexual activity because she had thought
14 about things like that with him before.

15 The officers did speak with Mr. Clark on
16 August 10th of 2016 who advised that he did, indeed,
17 have a sexual relationship as a 25-year-old male with a
18 12-year-old child. He said that he became involved
19 with her sexually because she had sexual dreams about
20 him.

21 He did kiss and fondle her, insert his fingers
22 into her vagina, and he stated he did not have sex with
23 the victim, but when pressed on the question of why
24 would you ask her if she was pregnant, he indicated
25 that he -- it was possible he did have sex with her and

1 didn't remember.

2 THE COURT: All right. Mr. Clark, did you hear
3 the solicitor's statement of the facts?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you agree those are the facts of
6 the case?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right.

9 Ms. Earle, are you satisfied that your client
10 understands his rights?

11 MS. EARLE: Yes, Your Honor.

12 THE COURT: And after investigating this case, do
13 you concur in his decision to plead guilty to this
14 charge?

15 MS. EARLE: Yes, Your Honor.

16 THE COURT: All right. I find there is a factual
17 basis for the plea. Defendant pleads guilty freely,
18 voluntarily, and intelligently with the advice of
19 competent counsel with whom he is satisfied.

20 All right. Let me hear from the State first, then
21 I'll turn it over to you, Ms. Earle.

22 MS. SIMMONS: Judge, the defendant does have no
23 prior record other than a reckless driving. I have
24 spoken with the officer in-depth about this case. The
25 officer and I believe just the facts themselves that we

1 have a 25-year-old man having sexual relations with a
2 12-year-old that he has gained the trust of via her
3 mother merits the fact that he does need to be included
4 on the sex offender registry. We believe he has
5 received a substantial benefit from going from a CSC
6 second with a minor down to assault and battery in the
7 second degree. The exposure has gone from 15 years to
8 three. We believe that active time and sex offender
9 registry is appropriate in light of the disparity in
10 ages of these parties.

11 THE COURT: Thank you, Ms. Simmons.

12 All right, Ms. Earle.

13 MS. EARLE: May it please the court. Your Honor,
14 in the forensic interview with the victim that was
15 provided to me, she asserts repeatedly that nothing
16 ever happened between them, that none of the
17 allegations were true.

18 Having talked with my client, he felt like an
19 assault and battery second degree plea was something he
20 could do. He has been incarcerated for 85 days at this
21 point. Your Honor, he has been in the Army in the
22 past. He received an honorable discharge. He had two
23 deployments while he was in the Army. He finished high
24 school in the Army.

25 He has attended Tri-County Tech studying

1 landscaping. He also has an opportunity, with the
2 potential of a scholarship, to go back to Tech and
3 study welding.

4 If he does pursue welding as a career, being on
5 the sex offender registry is going to be a big
6 hindrance to him because welders travel. They go
7 wherever the building boom is usually and work in
8 construction, wherever the building is taking place,
9 usually for more than 30 days at a time in any one
10 location, which would mean he would have to register
11 all over the country, wherever his job took him, which
12 would be a major imposition.

13 This is a first offense. In light of the victim
14 telling the forensic interviewer that nothing happened,
15 I'm not sure that the sex offender registry would be
16 appropriate for him.

17 He does have a four-year-old child that he pays
18 child support to. He has in the past worked as a
19 landscaper. He used to recap tires. He's done a lot
20 of different jobs in order to make a living and be able
21 to pay his child support.

22 I think this was an anomaly. I don't think that
23 he is an appropriate candidate for sex offender
24 registry.

25 If you are leaning toward that, I would ask Your

1 Honor to allow us to have him evaluated by
2 Dr. Schwartz-Watts Maddox and see what her
3 recommendation on that would be.

4 One of the reasons I haven't done that yet is
5 because the last one I did with her, it took six months
6 to get the evaluation and the written report back on
7 it. And even though this is an older case, we have
8 just recently been able to negotiate the plea that
9 we're here on today.

10 THE COURT: How many days time served did you say
11 your client has?

12 MS. EARLE: 85, Your Honor.

13 And, considering that this is a first offense, we
14 would ask that you put him on probation. If Your Honor
15 felt appropriate, send him to sex offender counseling,
16 but don't put him on the registry at this time.

17 THE COURT: Anything you would like to tell me,
18 Mr. Clark?

19 THE DEFENDANT: No, Your Honor.

20 MS. SIMMONS: Judge, just for the record, the
21 victim did not disclose anything clearly in the
22 forensic interview, but she did disclose to Deputy Rice
23 the things I've told you.

24 THE COURT: Well, he has pled guilty to it, so.

25 All right. Now, Ms. Earle, your client waived

1 presentment to the grand jury?

2 MS. EARLE: Yes, Your Honor.

3 THE COURT: Mr. Clark, you understand you would
4 have had a right to require this to be presented to the
5 grand jury?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And you wish to waive that so we can
8 go forward?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. If there's nothing
11 further, Defendant will be confined to the Department
12 of Corrections for a term of three years suspended on
13 service of one year followed by probation for
14 five years. 85 days time served. Sex offender
15 registry. No contact with the victim and random drug
16 and alcohol testing. Good luck to you.

17 (WHEREUPON, proceedings concluded at 4:35 p.m.)

18 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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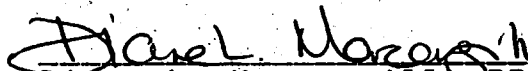
Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Oconee County, South Carolina, on the 16th day of April 2018.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

October 9, 2018



Diane L. Marcengill, RPR, CRR, CRC
Circuit Court Reporter

WITNESSES

Oconee Co Sheriff's Dept.
Tim J. Rice

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2018-GS-37-00600

The State of South Carolina
County of Oconee

COURT OF GENERAL SESSIONS

_____ , TERM

THE STATE

VS.

RANDALL SCOTT CLARK

INDICTMENT FOR

ASSAULT & BATTERY, 2ND DEGREE

SC Code: § 16-03-0600(D)(1)
CDR Code: 3413

LSS

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

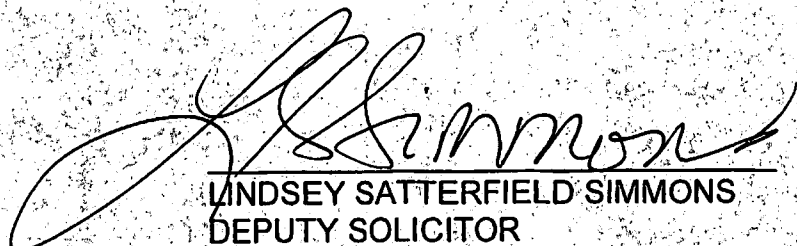
INDICTMENT

At a Court of General Sessions, convened on _____, the
Grand Jurors of Oconee County present upon their oath:

ASSAULT & BATTERY, 2ND DEGREE

The defendant, Randall Scott Clark, did on or about January 1, 2016 in Oconee County, commit the crime of assault and battery in the second degree against [REDACTED] DOB: [REDACTED]. The defendant did unlawfully injure the victim, or did offer or attempt to unlawfully injure the victim with present ability to do so, and the act involves the nonconsensual touching of the private parts of the victim, either under or above clothing. All in violation of 16-03-0600(D)(1) of the South Carolina Code of Laws (1976), as amended.

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


LINDSEY SATTERFIELD SIMMONS
DEPUTY SOLICITOR

COUNTY OF OCONEE
STATE VS.

U 3
days

INDICTMENT/CASE#: 2018-GS-37-00600
A/W: Direct
Date of Offense: 01/01/2016
S.C. Code §: 16-03-0655(B)(1)
CDR Code #: 03413

RANDALL SCOTT CLARK
AKA: _____
Race: White Sex: M Age: 25
DOB: _____ SS#: _____
Address: _____
City, State, Zip: West Union, SC 29696-0000
DL# _____ SID# SC02108790

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Assault and Battery, Second Degree

In violation of § 16-03-0600 (D), of the S.C. Code of Laws, bearing CDR Code # 3413.

NON-VIOLENT VIOLENT SERIOUS MOST-SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury, Recommendation by the State.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST
[Signature] 70224 *Randall S Clark* *Suzanne Clark*
Lindsey Satterfield Simmons, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 3 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of 1 days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 85 Days TJ
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____

Recipient: _____		
*Fine: _____	\$	_____
§14-1-206 (Assessments 107.5%)	\$	_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
Proviso 61.6 (Public Def/Prob)	\$500	\$ 500.00
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J). (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	\$	\$ 18.75
TOTAL	\$	643.75

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund
Other: sex offender registry
No contact with victim.

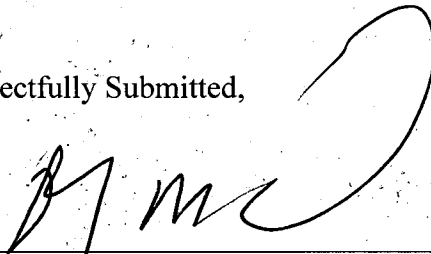
Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before any
other fees.
Presiding Judge: *[Signature]*
Judge Bar ID: 12958 Judge Code: 2752
Sentence Date: 04/16/18

Clerk of Court/Deputy Clerk: *Beverly H. Whitfield*
Court Reporter: *Diane Marcenillo*
SCCA/217 (07/2016)

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 16th day of April, 2019.