

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Sumter County

Honorable Kristi F. Curtis, Circuit Court Judge

MATTHEW RYAN BROWN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-001614

APPENDIX

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The State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Matthew R. Brown,)
)
 Defendant.)
)
)
)

November 14, 2016
Sumter, South Carolina

B E F O R E:

The Honorable W. Jeffrey Young, Judge

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

Scott Matthews, Esquire, Assistant Solicitor
Attorney for the State

Garryl Deas, Esquire
Attorney for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

I N D E X

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No Exhibits Introduced.

1 MR. MATTHEWS: The first matter is the *State of South*
2 *Carolina vs. Matthew Ryan Brown*. Mr. Brown is present for
3 today under a true-billed indictment 2016-0336. That's an
4 indictment that alleges criminal sexual conduct with a
5 minor first degree. Mr. Brown is here today to plead to
6 the lesser-included offense of criminal sexual conduct with
7 a minor second degree.

8 May I approach?

9 THE COURT: You may.

10 Mr. Deas, would you and your client please approach?

11 (A PAUSE.)

12 THE COURT: All right, Mr. Deas, you represent Matthew
13 Ryan Brown under indictment 2016-GS-43-336 charging your
14 client with criminal sexual conduct with a minor, eleven to
15 fourteen years of age, inclusive second degree. Is that
16 correct?

17 MR. DEAS: That's correct, Your Honor.

18 THE COURT: Have you had an opportunity to explain to
19 your client the charges contained in the indictment, the
20 possible punishment he faces, and his constitutional
21 rights?

22 MR. DEAS: Yes, sir, Your Honor. I've, I've been -- I
23 was retained to represent Mr. Brown back in December of
24 2015. He and I have met on many occasions to discuss not
25 only the charges but the possible consequences, and he says

M. BROWN - EXAMINATION BY THE COURT

4

1 he understands.

2 THE COURT: And you believe him?

3 MR. DEAS: Yes, sir.

4 THE COURT: Okay, and does he wish to plead guilty or
5 not guilty?

6 MR. DEAS: He wished to plead guilty.

7 THE COURT: And do you agree with his decision?

8 MR. DEAS: Yes, sir.

9 THE COURT: And based upon your investigation of the
10 facts and circumstances, do you believe that if this case
11 were to go to trial, that there would be a substantial
12 likelihood that he'd be found guilty beyond a reasonable
13 doubt?

14 MR. DEAS: Yes, sir, I do.

15 THE COURT: All right.

16 Mr. Brown, I need to ask you a series of questions to
17 make sure you're entering into this plea freely,
18 voluntarily, knowingly, and intelligently.

19 Is he under oath? Please place him under oath.

20 BAILIFF: Raise your right hand. State your name.

21 State your name.

22 DEFENDANT: Matthew Brown.

23 (WHEREUPON, THE DEFENDANT IS DULY SWORN.)

24 EXAMINATION BY THE COURT:

25 Q. Mr. Brown, the first question I have is are you under

M. BROWN - EXAMINATION BY THE COURT

5.

1 the influence of alcohol or drugs today?

2 A. No, sir.

3 Q. Are you taking any medications that would cloud your
4 judgment?

5 A. No, sir.

6 Q. Are you aware of any physical, emotional, or nervous
7 condition that would keep you from understanding what's
8 happening today?

9 THE COURT: Excuse me one second, please. Let me take
10 a quick break.

11 (A PAUSE.)

12 BY THE COURT:

13 Q. Are you taking any medications that would cloud your
14 judgment?

15 A. No, sir.

16 Q. All right. Are you aware of any physical, emotional,
17 or nervous conditions that would keep you from
18 understanding what's happening today?

19 A. No, sir.

20 Q. All right. Now, the indictment that you're wanting to
21 plead guilty to, 2016-GS-43-336, charges you with
22 first-degree criminal sexual conduct with a minor under the
23 age of eleven. The state has reduced that charge down to
24 criminal sexual conduct eleven to fourteen, which is
25 criminal sexual conduct with a minor second degree

1 The indictment reads that in Sumter County, South
2 Carolina, on or about December 1, 2013, through December
3 12, 2015, the defendant, Matthew Ryan Brown, date of birth
4 ██████████ 2000 -- excuse me, 1983, did commit a sexual
5 battery upon a minor who was less than eleven years of age
6 by digital penetration and/or cunnilingus upon Minor ██████████
7 Minor ██████████ -- Minor ██████████ date of birth ██████████ 2006, in
8 violation of Section 16-3-655 of the South Carolina Code,
9 which was reduced to a second degree. Is what's stated in
10 the indictment the truth?

11 A. Yes, sir.

12 THE COURT: What are the facts, Solicitor?

13 MR. MATTHEWS: Your Honor, on or about from
14 approximately December of 2012 to December -- or, sorry,
15 October of 2012 to December 2015, the defendant did engage
16 in a series of sexual -- sexually inappropriate
17 interactions with his stepdaughter, Minor ██████████ Minor ██████████

18 Your Honor, she -- this whole matter came to light on
19 December 12, 2015, when Miss Minor ██████████ was over at her aunt
20 Stacy Marsh's house. Ms. Marsh walked into her daughter
21 Minor ██████████'s bedroom and noticed that her daughter had her
22 pants around her ankles, and Miss Minor ██████████ was attempting
23 to touch her daughter's vaginal area.

24 She separated the two children and asked them what had
25 happened and why Miss Minor ██████████ was, was engaged in that

1 type of conduct, conduct. At that point Miss [redacted] Minor
2 disclosed to her aunt, Stacy Marsh, that for approximately
3 three years her father -- or she referred to him as her
4 father; he was actually her stepfather -- Matthew Brown had
5 been touching her inappropriately. She stated that this
6 whole -- all began a few weeks after her baby brother was
7 born, so that's how she knew it began in approximately
8 October of 2012.

9 Your Honor will notice on the indictment it's listed
10 December of 2013. Initially she said she thought it began
11 when she was in second grade. That's where that date comes
12 from, but in preparing for trial, she has stated that 2012
13 was actually the end date, but more of the significant
14 events occurred in that timeframe from December of 2013 to
15 December 2015.

16 She stated that initially he would put -- place his
17 hand underneath her pants, underneath her underwear, and he
18 would fondle her vaginal area with his finger. She denied
19 that he ever achieved any kind of digital penetration. She
20 stated that that would go on approximately, she estimated,
21 fifty to one hundred times over the course of three years.
22 She stated it would usually happen in their living room
23 when nobody else would be around and no adults would be
24 home besides them. Sometimes it happened in her bedroom in
25 the morning when he was waking her up for school. An

1 additional time it happened in the defendant's bedroom, and
2 he used a sexual toy on her during that, during that event.

3 She stated that recently and towards the time this
4 came to an end in September, October, and November of 2015,
5 Mr. Brown started engaging in different types of conduct.
6 He attempted to get Miss Minor to touch his penis. Also
7 attempted to get her to perform fellatio on him by forcing
8 her head towards his penis. She stated that she would
9 always pull away and state she had to go to the bathroom
10 and run and hide in the bathroom, and that's how she would
11 more or less get out of that situation. On an additional
12 occasion in approximately October of last year, he
13 attempted sexual intercourse with her. She stated that she
14 did escape that situation by running to the bathroom as
15 well.

16 Your Honor, the sexual battery that constitutes the
17 first degree and also for the sake of this plea, the
18 second-degree would be the cunnilingus that Mr. Brown
19 performed on Miss Minor in approximately September to
20 October of last year. Miss Minor stated that Mr. Brown
21 pulled her pants down and then proceeded to lick her
22 vaginal area, and she stated that afterwards she felt very,
23 very badly and had difficulty urinating and had a burning
24 sensation after that event.

25 So, that is -- those are the allegations on behalf of

M. BROWN - EXAMINATION BY THE COURT

9

1 the state, and of course Miss Minor was under eleven
2 years of age and still is under eleven years of age, but
3 for the sake of this plea, we're allowing Mr. Brown to
4 plead to the second degree.

5 Your Honor, she, Miss Minor is here, or she was in
6 here. I think she's walked out. She's an emotionally
7 fragile child; this is a very traumatic event for her. She
8 now lives in the state of Washington, in Bremerton,
9 Washington. We did fly her down here for this, so it was
10 very important to her family that they see this matter
11 through and see justice done. But she, in preparing for
12 this, was having a difficult time at some, some portions
13 getting ready, and we understand that certainly. So, she
14 has walked out of the courtroom presently with her
15 stepmother, Michaely Minor but we do have Stacy Marsh,
16 who is her maternal aunt, here. And when Your Honor is
17 ready or willing, we would like her to say a few words to
18 the court.

19 THE COURT: And is the reason that you've reduced the
20 charge from criminal sexual conduct with a minor first to
21 second is to spare her from testifying?

22 MR. MATTHEWS: Yes, Your Honor. That is a very
23 accurate way to say it. I think it would ultimately be
24 very traumatic for her to have to testify. And I did not
25 mention, mention it yet, Your Honor, but for the sake of

M. BROWN - EXAMINATION BY THE COURT

10

1 facilitating this plea, the state does have a
2 recommendation of fifteen year -- a fifteen-year active
3 sentence.

4 THE COURT: Okay.

5 BY THE COURT:

6 Q. Now, Mr. Brown, do you agree with the facts as stated
7 by the solicitor?

8 MR. DEAS: Well, Your Honor, he does agree with the
9 fact that he did perform cunnilingus on his, on his
10 stepdaughter and that he did attempt to -- that he fondled
11 her digitally in the vaginal area. The instances that were
12 described with regards to using a sex toy, and I guess the,
13 I guess the actual attempts to ---

14 THE COURT: Well, let me ---

15 MR. DEAS: --- have actual intercourse ---

16 THE COURT: I'm going to, I'm going to cut you short
17 because I'm going to make sure this is a full guilty plea.
18 I don't need you kind of editorializing his statement, but
19 I want him to tell me what he did that was against the law.

20 MR. DEAS: Yes, sir, and, and, and what he said was --
21 what he indicated to me is that he performed cunnilingus
22 on, on his stepdaughter and he ---

23 THE COURT: And I need to hear that from him.

24 MR. DEAS: Yes, sir.

25 BY THE COURT:

M. BROWN - EXAMINATION BY THE COURT

11

1 A. Yes, sir, I did what, what he said. Just the one
2 thing that I, I did not do was far as the vibrator. I
3 didn't do that. Now the rest of it, yes, sir, I did it.
4 I'm sorry for it. I'm sorry for -- to all y'all, that
5 y'all got to be up in here for this. I'm sorry to Minor
6 I'm sorry to their family. I'm sorry to everybody.

7 I know that I did wrong; I know this. If I could take
8 it back right now, I would. I would take it all back, but
9 I know that I can't, but I ask for forgiveness for the Lord
10 and I live for the Lord.

11 Q. And there's no question that you committed the acts
12 that the solicitor talked about with the exception of the
13 vibrator?

14 A. Yes, sir.

15 Q. Okay.

16 A. I did.

17 Q. Are you, in fact, guilty?

18 A. Yes, sir, I'm guilty.

19 Q. All right. Now, you understand that with this charge,
20 they have made a recommendation of fifteen years, which the
21 max is twenty. The -- down to fifteen years. Do you
22 understand I am in no way bound to go along with the
23 recommendation in this case?

24 A. Yes, sir.

25 Q. Okay. Up to me. I can sentence you to twenty years

M. BROWN - EXAMINATION BY THE COURT

12

1 and be well within the law. Do you understand that?

2 A. Yes, sir.

3 Q. And you understand I've made no agreement with your
4 attorney or the solicitor's office that I would accept the
5 fifteen-year recommendation? Do you understand that?

6 A. Yes, sir.

7 Q. All right. Now, do you understand as well that with
8 your pleading guilty on this charge, that you will be
9 subjected to be being placed on the Central Registry of
10 Child Abuse and Neglect and will be subjected to lifetime
11 monitoring? Do you understand that?

12 A. Yes, sir.

13 Q. All right. Now, you also understand that when you
14 plead guilty, you waive certain constitutional rights. The
15 first right you waive is your right against
16 self-incrimination. Not in this court or any court in this
17 great land would you ever be required to testify against
18 yourself. However, when you plead guilty, you're doing
19 exactly that. Do you understand that?

20 A. Yes, sir.

21 Q. So, do you wish to waive your right against
22 self-incrimination and continue with this plea?

23 A. Yes, sir.

24 Q. All right. You're also waiving your right to have a
25 jury trial where twelve people from Sumter County could be

M. BROWN - EXAMINATION BY THE COURT

13

- 1 assembled so that they could listen to the evidence, and
2 only after you had heard -- they had heard evidence of your
3 guilt beyond a reasonable doubt could you be convicted.
4 During the course of the trial, Mr. Deas could artfully
5 cross-examine the witnesses presented, could call witnesses
6 on your behalf, and, and could bring up any legal defenses
7 that could possibly exonerate you. But when you plead
8 guilty, the state doesn't have to prove anything, and you
9 don't get to ask any questions about the evidence. Do you
10 understand that?
- 11 A. Yes, sir. I don't want to put her through nothing
12 else.
- 13 Q. So, you wish to waive your right to have a jury trial
14 and confront the witnesses against you?
- 15 A. Yes, sir.
- 16 Q. Now, has anybody threatened you in any way to get you
17 to plead guilty?
- 18 A. No, sir.
- 19 Q. Has anybody promised you anything to get you to plead
20 guilty?
- 21 A. No, sir.
- 22 Q. Is the only reason that you're pleading guilty is
23 because you are, in fact, guilty of criminal -- committing
24 criminal sexual conduct with a minor in the second degree?
- 25 A. Yes, sir, I'm guilty.

M. BROWN - EXAMINATION BY THE COURT

14

1 Q. Okay. Are you satisfied with the services of Mr.
2 Deas?

3 A. Yes, sir. He's a good man.

4 Q. Has he done everything you've asked him to do?

5 A. Yes, sir.

6 Q. Has he done anything that you wished he had not have
7 done in the preparation of your case?

8 A. No, sir.

9 Q. Do you need any more time to speak to Mr. Deas?

10 A. No, sir.

11 Q. Now, have you understood all of my questions today?

12 A. Yes, sir.

13 Q. Do you have any questions for the court, and I'm going
14 to give you an opportunity to speak, but do you have any
15 specific questions about this plea or what you're pleading
16 guilty to?

17 A. No, sir.

18 Q. All right, and do you understand if you change your
19 mind about your decision to plead guilty or the sentence
20 that I give you, you will only have ten days in which to
21 file an appeal?

22 A. Yes, sir.

23 Q. All right. Under indictment 2016-GS-43-336 on the
24 charge of criminal sexual conduct with a minor in the
25 second degree, how do you plead, guilty or not guilty?

1 A. I plead guilty.

2 Q. All right.

3 THE COURT: All right, I find a substantial factual
4 basis for the plea. I find the defendant has entered into
5 it freely, voluntarily, knowingly, and intelligently. He
6 has had the advice of counsel who he says he is well
7 pleased. I will accept the plea.

8 What is his prior criminal history?

9 MR. MATTHEWS: Your Honor, he has a fairly minor prior
10 criminal history. He was convicted of a larceny, I think a
11 petit larceny, in 2005 and let me find this to be sure,
12 Your Honor. It was a larceny of 1000 to 2000, which was
13 reduced to petit -- no. I'm sorry, Your Honor. He plead
14 larceny 1000 to 2000 in 2005, and a simple possession of
15 marijuana in 2006, and that's the extent of his criminal
16 history.

17 THE COURT: Is that correct, sir?

18 DEFENDANT: Yes, sir.

19 THE COURT: Mr. Deas, would you like to say anything?

20 MR. DEAS: Thank you, Your Honor.. May it please the
21 court? Your Honor, Mr., Mr. Brown is thirty-three years of
22 age. His date of birth was [REDACTED], 1983. He told me
23 that when he was in high school, he was in special, special
24 education classes and that he essentially dropped out of
25 high school after the eleventh grade. He does have his

1 GED. He's worked most of his life as, as a self-employed
2 mechanic. Your Honor, he is married to Ms. Jessica Brown;
3 they have one biological child, Minor [REDACTED] who is four
4 years old.

5 [REDACTED] -- after this incident occurred when he was
6 arrested involving, involving the incidents with Minor [REDACTED]
7 [REDACTED] on December the 18th of 2015, his, his
8 four-year-old son is now in the care of his, of his
9 biological -- of his mother, Mr. Brown's mother, Gloria
10 Martin who's here in the courtroom. My understanding is
11 that the DSS case is still pending and that ultimately his
12 four-year-old son would more than likely end up in the
13 permanent placement of the grandmother.

14 And he essentially, Your Honor, as he indicated to you
15 earlier, he takes full responsibility for his actions. He
16 has indicated to me very recently what he did, and he said
17 that he has confessed his sins not only to God but to his
18 wife and to other family members. He said he is trying to
19 basically ensure that this child does not endure anything
20 beyond what she's already endured, which is horrific by
21 any, by any description. It's horrific, and -- but he
22 knows, and I've talked to him about this, that is about as
23 egregious of a crime as it gets, and he understands that.

24 One thing he said to me is that, you know, he knows
25 that he has to answer to this. And -- but his, his prime

1 -- his paramount concern has been just making sure that,
2 that nothing -- no other harm comes to his stepdaughter and
3 that she doesn't have to go through a trial, and he said
4 that was to -- he didn't really care too much about what
5 his consequences were. He just didn't want the child to
6 have to endure any further pain.

7 Your Honor, he understands that he could have been
8 facing twenty-five years to life if he were convicted of
9 criminal sexual conduct in the first with a minor, and he
10 understands the plea negotiations that went on and
11 ultimately what he's pleading to today.

12 Your Honor, I would just ask the court to follow the
13 recommendation that was made by the state. I believe the
14 recommended sentence is fifteen years. I did explain to
15 him that the court does not have to adhere to that, that
16 the court could sentence him up to the maximum penalty for
17 this charge, which is twenty years, and he said he
18 understood that.

19 Essentially, Your Honor, he does have several family,
20 family members here that indicated they wanted to speak on
21 his behalf. If the court pleases, I would like for the
22 court to hear from them at this time.

23 THE COURT: All right, and, and I hear you, but I also
24 forgot to ask him a couple of questions. I didn't have my
25 script in front of me.

M. BROWN - EXAMINATION BY THE COURT

18

1 BY THE COURT:

2 Q. You understand that pleading guilty to this charge is
3 a violent, most serious crime?

4 A. Yes, sir.

5 Q. If you commit another crime such as this, that you can
6 be sentenced to life without the possibility of parole. Do
7 you understand that?

8 A. Yes, sir.

9 Q. So, there -- not only are there consequences for this
10 crime, but if you commit another crime, that the global
11 penalty can be higher than just what that crime carries.
12 Do you understand that?

13 A. Yes, sir.

14 Q. All right, I needed to add that into this, and you
15 understand that you will have to serve 85 percent of
16 whatever sentence I give you without the possibility of
17 parole. Do you understand that?

18 A. Yes, sir.

19 Q. All right. Thank you.

20 THE COURT: You may proceed.

21 MR. DEAS: Yes, sir. Your Honor, as I said, he does
22 have his mom here today; he has a cousin and a sister and a
23 brother-in-law that would like to address the court.

24 THE COURT: Certainly.

25 MR. DEAS: I guess we can start with the mother.

1 THE COURT: Come forward, please.

2 Please place them under oath.

3 BAILIFF: Please raise your right hand, ma'am. State
4 your name.

5 MS. MARTIN: I'm Gloria Martin.

6 (WHEREUPON, GLORIA MARTIN IS DULY SWORN.)

7 THE COURT: Yes, ma'am.

8 MS. MARTIN: Your Honor, my name is Gloria Martin.
9 I'm Matthew's mother. I just want to ask for leniency and
10 mercy on my son. I have his son that's four years old
11 through DSS. He's in my care. Him and his son has a very
12 special, close bond. He really -- my son -- grandson
13 really loves his dad. They do things together and, you
14 know, it's like he wants to see his dad all the time. He's
15 -- you know, I -- it's hard enough and I know he's done
16 wrong, and I'm sure that he's going to learn from this, but
17 I, I, I, I plead that -- be lenient on him for my
18 grandson's sake.

19 THE COURT: There's always collateral damage.

20 Anyone else want to speak?

21 MR. DEAS: This, this is his brother-in-law, Mr.
22 Bradley Holiday.

23 BAILIFF: Raise your right hand, sir. State your
24 name.

25 M. HOLIDAY: Bradley Holiday.

1 (WHEREUPON, BRADLEY HOLIDAY IS DULY SWORN.)

2 THE COURT: Thank you, Mr. Holiday. What would you
3 like to tell me?

4 MR. HOLIDAY: I've known Matthew Brown for over
5 fifteen years. I'm married to his sister, and I know he's
6 a real good dad with this little boy. I just want to ask
7 the court to give him leniency. That little boy's going to
8 hurt without -- after this. I just ask the court to give,
9 give Matthew Brown mercy.

10 THE COURT: Thank you, sir.

11 MR. HOLIDAY: Thank you.

12 MR. DEAS: Then, Your Honor, we have, I believe, is
13 his first cousin, Ms. Sandra Parker.

14 BAILIFF: Right hand, ma'am. State your name.

15 MS. PARKER: Sandra Parker.

16 (WHEREUPON, SANDRA PARKER IS DULY SWORN.)

17 THE COURT: Yes, ma'am.

18 MS. PARKER: Your Honor, I, I've been in his life ever
19 since he was born, and he's been a good boy, and he knows
20 what he did was wrong, but the little bond that he has --
21 his little boy loves him so much, and he takes him fishing
22 in his bass boat. You know, he spends a lot of time, you
23 know, with him, doing things with him, and I just wish that
24 you would just give him some leniency because his little
25 boy needs him.

1 THE COURT: Thank you.

2 MR. DEAS: And, Your Honor, I don't know if Mr. Brown
3 would like to say -- I think he's already kind of said some
4 things. I don't know if he wants to address the court
5 again.

6 Do you?

7 THE COURT: That would be his option.

8 DEFENDANT: I'm sorry to everybody. I'm sorry to
9 Minor family, to her mother, to her grandmother, to
10 Stacy, Ryan, and to Minor I am sorry. I am sorry. I
11 know that I did wrong. I know I did, but I apologize. I
12 hope that one day that y'all can find in your heart to
13 forgive me because I ask for forgiveness, but I know that I
14 am forgiven. Sorry.

15 THE COURT: Yes, Mr. Matthews, whoever from ---

16 MR. MATTHEWS: Your Honor, if it pleases the court?

17 THE COURT: --- the victim's side would like to speak.

18 MR. MATTHEWS: Yes, Your Honor. Ms. Stacy Marsh would
19 like to say a few things.

20 THE COURT: Yes, ma'am.

21 Place her under oath.

22 BAILIFF: State your name, ma'am.

23 MS. MARSH: Stacy Marsh.

24 (WHEREUPON, STACY MARSH IS DULY SWORN.)

25 THE COURT: Yes, ma'am.

1 MS. MARSH: Your Honor, the whole time that this is
2 happening, it -- I'm [Minor] aunt. Since this happened to
3 her, she's been a different little girl. She'll never be
4 the same. She'll always suffer, and we ask that he suffer,
5 too, for what he's done to her. We recommend the maximum
6 sentence.

7 THE COURT: Anyone else?

8 MS. MARSH: No. [Minor] left.

9 MR. MATTHEWS: Your Honor, Miss [Minor] unfortunately
10 left the courtroom, and her stepmother, Michaely, initially
11 wanted to say something, but we'll, we'll go without her
12 presence.

13 THE COURT: Okay. Anything further from the state?

14 MR. MATTHEWS: Nothing further.

15 THE COURT: Anything further from the defendant?

16 MR. DEAS: Nothing further, Your Honor.

17 THE COURT: Okay.

18 SENTENCE OF THE COURT:

19 THE COURT: Mr. Brown, you and your family are
20 requesting mercy of this court. Quite frankly, you have
21 already been given some mercy because the charge has been
22 reduced from a criminal sexual conduct in the first degree
23 to a second degree, which spares you a potential life
24 sentence in this case and a minimum of twenty-five years.

25 Mr. Brown, as Christians we believe that all of our

1 sins can be forgiven through the blood of Jesus Christ, but
2 that does not mean there are not penalties on this earth.
3 You will be forgiven with repentance in the eternal life,
4 but there are still penalties that must be served.

5 What you stole from this child can never be replaced.
6 You have taken her innocence from her repeatedly, and for
7 that I think this case warrants a sentence no less than the
8 maximum that I can give you of twenty years. You will also
9 be subjected to being placed on the Central Registry of
10 Child Abuse, and that is the sentence of this court. Good
11 luck.

12 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR SUMTER COUNTY, SOUTH CAROLINA, ON
THE 14TH DAY OF NOVEMBER, 2016.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

S/ELIZABETH B. HARRIS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

MAY 25TH, 2018

RECORDED
FORM 5

2017 OCT 10 PM 3:24

STATE OF SOUTH CAROLINA

COUNTY OF SumterJAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

IN THE COURT OF COMMON PLEAS

CERTIFIED TRUE COPY
OF ORIGINAL FILEB. J. [Signature]
2017 SEP 13
DEPUTY CLERK OF COURTSUMTER COUNTY
SOUTH CAROLINA
APPLICATION FOR

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

Matthew Ryan Brown - 370550

v.

State of South Carolina

POST-CONVICTION RELIEF

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 Lieber Correctional Institution
2. Name and location of Court which imposed sentence Sumter, S.C. general session
3. Name(s) of co-defendant(s) (if any) NO
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) do not know
 - (b) criminal sexual
 - (c) conduct 2 degree
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Nov-14
 - (b) 20 years

RECEIVED

OCT 13 2017

Referred to PCR/PBAnswered [Signature]

Filed 10-11-17

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty yes

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. _____

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____ my attorney did not

(b) _____ do what I ask him

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

The JUDGE Told my attorney to
Be quiet he did not want to
hear from him

revised 1/2/01

- (a) _____
 (b) _____
 (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out

in (10): *My Attorney did not say anything to The Judge on my Behalf.*

- (a) _____
 (b) _____ *My Attorney never gave me my sentencing ~~sheet~~ ^{seet}*
 (c) _____

12. Prior to this application have you filed with respect to this conviction: *No*

- (a) any petition in a State Court under South Carolina Law? _____
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
 (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
 ii. _____
 iii. _____
 iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. _____
 ii. _____
 iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

NO ~~Yes~~ I am no Attorney

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) _____

(b) _____

(c) _____

my Attorney did not tell me
nothing

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? ~~NO~~ None

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. ~~XXXXXXXXXXXX~~ Geryl Deas
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. ~~XXXXXXXXXXXX~~ General session
 - ii. _____
 - iii. _____

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

I want Lesser Time

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

NO

STATE OF SOUTH CAROLINA

County of Sumter

VERIFICATION

I, MRB, 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.

Mattman Bryant

SWORN to and subscribed before me this 6th
day of October, 2017.

Ludman Bryant (L.S.)
Notary Public

My Commission Expires: May 21, 2020

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

I, MRB, 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.

Matthew B. B...
Applicant

SWORN or affirmed to and subscribed before me this
16th day of October, 2017.

Lucyann Bryant
Notary Public

My Commission Expires: May 26, 2020

RECORDED
2017 OCT 10 PM 3:24
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	FOR THE THIRD JUDICIAL CIRCUIT
	)	
Matthew Ryan Brown, #370550,	)	Case No.:2017-CP-43-1835
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the application for post-conviction relief filed by Matthew Ryan Brown (Applicant) on October 10, 2017, Respondent would show this Court:

I.

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. Applicant was indicted at the March 2016 term of the Sumter County Grand Jury for first-degree criminal sexual conduct with a minor (2016-GS-43-0336). The charges stem from the disclosure by the victim, Applicant's step-daughter, on December 12, 2015 that Applicant had been touching her inappropriately for approximately three years. The acts began when the victim was six years old and continued over the span of about three years. The sexual battery which was the basis for the indictment and plea was an act of cunnilingus that Applicant performed on the victim in approximately September to October of 2015. Tr. 6-8.

Garryl Deas, Esquire, represented Applicant, and Assistant Solicitor J. Scott Matthews, Esquire, prosecuted the case. On November 14, 2016, Applicant pled guilty to second-degree criminal sexual conduct with a minor before the Honorable W. Jeffrey Young. Judge Young

sentenced Applicant to imprisonment for twenty years. Applicant did not appeal his guilty plea or his sentence.

II.

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

1. "My attorney did not do what I ask him."
2. "The judge told my attorney to be quiet he did not want to hear from him."
3. "My attorney did not say anything to the judge on my behalf."
4. My attorney never gave me my sentencing seet (sic)."

Attached to and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

III.

Respondent interprets Applicant's claims as allegations of ineffective assistance of counsel and asserts they are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its

“reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCPP; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well

in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

V.

Respondent denies each allegation not expressly admitted, qualified, or explained.

[Signature Block on Following Page]

VIII.

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

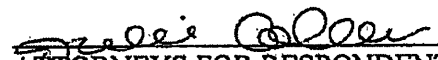
ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JULIE A. COLEMAN.
Assistant Attorney General

By:


ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

June 21, 2018

STATE OF SOUTH CAROLINA)

COUNTY OF SUMTER)

MATTHEW R. BROWN, #370550)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

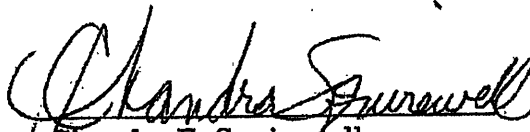
2017-CP-43-1835

AFFIDAVIT OF SERVICE BY MAIL

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

Timothy L. Griffith, Esquire
 360 West Wesmark Blvd., 2ND Floor
 Sumter, SC 29150

DATED this 21st day of June, 2018.


 Chandra E. Squirewell
 Legal Assistant For Respondent

State of South Carolina) Court of Common Pleas
) Third Judicial Circuit
County of Sumter) Case No. 2017-CP-43-01835
)
)
Matthew Ryan Brown,)
)
Plaintiff,)
)
-vs-) Transcript of Record
)
)
State of South Carolina,)
)
Defendant.)
)

July 24, 2018
Sumter, South Carolina

B E F O R E:

The Honorable Kristi F. Curtis, Judge

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

Timothy L. Griffith, Esquire
Attorney for the Plaintiff/Applicant

Julie Coleman, Esquire
Attorney for the Defendant

Krystal J. Smith
Circuit Court Reporter

I N D E X

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

COURT REPORTER LEGEND

dashes --	intentional or purposeful interruption or change in thought
ellipses . . .	trailing off
[ph]	phonetically written
[sic]	written as said

1 JULY 24, 2018

2 (WHEREUPON, the proceedings began at 11:52 a.m. The
3 applicant was present with his counsel of record.)

4 MR. GRIFFITH: We're ready to proceed, Your Honor.

5 MS. COLEMAN: May it please the Court. This is Matthew
6 Ryan Brown versus the State of South Carolina, Docket Number
7 2017-CP-43-1835.

8 Applicant is presently confined in the South Carolina
9 Department of Corrections pursuant to orders of commitment of
10 the Sumter County Clerk of Court. Applicant was indicted at
11 the March 2016 term of the Sumter County Grand Jury for
12 first-degree criminal sexual conduct with a minor. That's
13 Docket Number 2016-GS-43-336. Garryl Deas, Esq., represented
14 the applicant, and Assistant Solicitor J. Scott Matthews,
15 Esq., prosecuted the case.

16 On November 14th, 2016, applicant pled guilty to a
17 reduced charge of second-degree criminal sexual conduct with
18 a minor before the Hon. W. Jeffrey Young. Judge Young
19 sentenced applicant to imprisonment for 20 years. Applicant
20 did not appeal his guilty plea or his sentence.

21 Applicant filed a timely application for post-conviction
22 relief on October 10th, 2017, alleging he was being held in
23 custody unlawfully based on the following allegations.

24 My attorney did not do what I asked him. The judge told
25 my attorney to be quiet. He did not want to hear from him.

MATTHEW RYAN BROWN - DIRECT BY MR. GRIFFITH

1 My attorney did not say anything to the judge on my behalf,
2 and my attorney never gave me my sentencing sheet.

3 The State made its return on June 21st, 2018, and
4 applicant is present today and is represented by Mr. Timothy
5 Griffith.

6 THE COURT: Mr. Griffith?

7 MR. GRIFFITH: May it please the Court, Your Honor. We
8 would call Mr. Matthew Brown to the stand.

9 THE BAILIFF: Place your left hand on the -- on the
10 Bible and raise your right hand. Do you solemnly swear or
11 affirm to this Court to tell the whole truth and nothing but
12 the truth, so help you God?

13 THE APPLICANT: I do.

14 THE BAILIFF: Okay. Have a seat. State your full name
15 and spell your last name, please, sir, for the record.

16 THE APPLICANT: Matthew Ryan Brown, B-r-o-w-n.

17 MATTHEW RYAN BROWN, being first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. GRIFFITH:

21 Q: Mr. Brown, how long have you been incarcerated?

22 A: I think it was 2016, I believe.

23 Q: You'd already been incarcerated? You've been
24 incarcerated -- actually, you pled guilty on November 14th in
25 2016; is that correct?

MATTHEW RYAN BROWN - DIRECT BY MR. GRIFFITH

1 A: Uh-huh.

2 Q: And who was your attorney at that time?

3 A: Garryl Deas.

4 Q: Did you hire Mr. Deas or was he appointed to represent
5 you?

6 A: I hired him.

7 Q: You hired him?

8 A: Which my family did.

9 Q: Okay. And when you pled guilty, did he lead you to
10 believe anything that turned out not to be true?

11 A: Well, I was -- I was up under the impression that, you
12 know, it was zero to 15. I didn't know until, you know, the
13 day of that there was no cap up on it because I asked him to
14 put a cap where the judge cannot go over 15 up on me, but
15 that was not.

16 Q: And so when you're saying your attorney didn't do what
17 you asked him, is that what you're talking about?

18 A: Yes.

19 Q: Is there anything else that you asked him to do that he
20 did not do?

21 A: I asked him to file the appeal, which my family did too,
22 and I asked him and what he said to my family was it would
23 not be up in the best interest to -- for him to represent me
24 anymore.

25 Q: Did he tell you that you would need to hire someone for

MATTHEW RYAN BROWN - DIRECT BY MR. GRIFFITH

1 an appeal, someone else?

2 A: Yeah. He did.

3 Q: Okay. You also said in your complaint that he didn't
4 say anything to the judge on your behalf. Could you tell us
5 about that?

6 A: Yeah. After -- because he tried to say something on my
7 behalf as far as -- and then the judge shut him down and then
8 I spoke and everything, but I feel like that, you know, it
9 could have been more of him speaking than me, you know.

10 Q: Had he told you prior that the solicitor was going to
11 recommend 15 years?

12 A: Yeah.

13 Q: Did he also tell you that the judge didn't have to
14 listen to the solicitor's recommendation?

15 A: On the phone, he told me it would be zero to 10 -- 15
16 and then when we got to the courtroom in the little room
17 there, that's when he broke it down to me, you know.

18 Q: Okay. And what else did you ask him to do that he
19 didn't do?

20 A: I asked him not to bring me up in front of -- his name
21 is Young.

22 Q: Judge Young?

23 A: Yes. I did not want to go up in front of him because I
24 heard that he is a harsh judge and he likes to give maximum
25 sentences and stuff and -- and he did not file my appeal.

MATTHEW RYAN BROWN - DIRECT BY MR. GRIFFITH

1 Yeah. Yeah.

2 Q: Okay. Take your time.

3 A: Nerves.

4 Q: Okay. All right. That's okay. Yeah, this is, you know

5 --

6 A: It is a little --

7 Q: Take your time.

8 A: There's something else I'm trying to --

9 Q: Well, did you expect him to say more on your behalf
10 during your plea? Is that what you're telling us?

11 A: Yes, sir.

12 Q: Okay. And you don't think that he did say enough --

13 A: Yeah.

14 Q: -- on your behalf?

15 A: I don't think that he did.

16 Q: Okay. And you had wanted him to file an appeal, but he
17 did not file a notice of appeal?

18 A: Yes, sir.

19 Q: Okay. Can you think of anything else you can tell us
20 that he -- that you had asked him to do that he did not do?

21 A: Not at this moment I can't.

22 Q: Okay.

23 MR. GRIFFITH: I have no further questions.

24 THE COURT: Ms. Coleman?

25 MS. COLEMAN: Thank you, Your Honor.

MATTHEW RYAN BROWN - CROSS BY MS. COLEMAN

CROSS-EXAMINATION

1
2 BY MS. COLEMAN:

3 Q: Mr. Brown, do you remember how many times you met with
4 Mr. Deas before your guilty plea?

5 A: I think between three and four times.

6 Q: And about how long did he represent you before you pled
7 guilty?

8 A: Nine months.

9 Q: Did you review any discovery with your attorney, like
10 the evidence against you?

11 A: I can't -- I can't recall that.

12 Q: Did you discuss any possible defenses with your attorney
13 that you could use at trial?

14 A: Yeah. I talked to him about -- about certain things and
15 everything. I talked to him.

16 Q: What kind of defenses did you have?

17 A: Um --

18 Q: Or what kind of things did you talk about?

19 A: You've got to excuse me because this -- this has been a
20 little -- a little minute here and it's -- I'm trying to
21 recollect it some.

22 Q: Well, let me rephrase it. Maybe this will make it
23 easier. Did you talk about the facts of the case with your
24 attorney, like what the State was trying to prove that you
25 had done wrong?

MATTHEW RYAN BROWN - CROSS BY MS. COLEMAN

1 A: Yeah.

2 Q: Okay. Did you tell him your version of the facts or did
3 you agree -- I mean did you tell him you did it?

4 A: Well, at first, I didn't, but then, you know, I did.

5 Q: So there's no question that you did it; right? You are
6 guilty of this crime?

7 A: Uh-huh.

8 Q: Is that a yes?

9 A: Yes.

10 Q: Thank you. And I'm sorry. You just have to say yes or
11 no for the court reporter.

12 A: All --

13 Q: She's got to record it.

14 A: Ma'am, all I'm trying to do is get back time.

15 Q: I'm sorry. I didn't hear you. What did you say?

16 A: All I'm trying to do is get back time. I'm not trying
17 to -- to sit here and think that I'm not guilty or nothing
18 like that. You know, I am in handcuffs.

19 Q: Okay. Now, you understand that if you win here today,
20 if you are successful, all you get is a new trial and they
21 can't cut your sentence? You get a new trial and you go back
22 to facing criminal sexual conduct, first-degree, which
23 carries 25 years to life in prison. Do you understand that?

24 A: Yes, ma'am. I sure do.

25 Q: Is that something you still want?

MATTHEW RYAN BROWN - CROSS BY MS. COLEMAN

1 A: Well, y'all done -- y'all done took my freedom for 20
2 years and then on top of that y'all took my son. That was my
3 heart.

4 Q: Okay. But you still want a new trial on this charge?

5 A: Yeah, if I can.

6 Q: Even though you could get life in prison?

7 A: Yeah.

8 Q: Okay. Was the victim going to testify against you at
9 trial, to your knowledge?

10 A: After the fact, after the trial and everything, I found
11 out that -- through resources that she wasn't going to
12 testify, but that's -- to me, that's just hearsay.

13 Q: Okay. So as far as you know, the State was going to put
14 her up as a witness at trial; right?

15 A: Yes, ma'am.

16 Q: Okay. And that was not something you wanted at the
17 time? Does that sound right?

18 A: No, ma'am.

19 Q: Okay. Was it your decision to plead guilty?

20 A: I felt like that I was -- well, I felt like that -- that
21 I was -- I knew that I was guilty and I didn't have a problem
22 with pleading that, but I felt like that I was pressured into
23 it as far as the plea at the end is what I felt like, but --
24 you know.

25 Q: Did your attorney review your constitutional rights with

MATTHEW RYAN BROWN - CROSS BY MS. COLEMAN

1 you and tell you about your right to a jury trial and your
2 right to remain silent?

3 A: Yes. I believe he did.

4 Q: Okay. And the judge went over all that with you during
5 the guilty plea too; right?

6 A: Rephrase the question, please?

7 Q: Did the judge also tell you that you had the right to a
8 jury trial that you were waiving by pleading guilty?

9 A: Yes.

10 Q: Okay. And you told the plea judge -- this is Judge
11 Young. You told him that you were satisfied with your
12 attorney at the guilty plea; right?

13 A: Yeah. I believe I did say that.

14 Q: And you had no complaints about him at the time?

15 A: At the time, because I -- I didn't go to school for law.
16 I do have a learning disability. It is on record on my
17 school records. So when people sit here and use certain
18 words, I really don't understand, but there's times where I
19 just agree where I don't look stupid, but, you know, it does
20 show.

21 Q: Did you ever -- if anything came up that you didn't
22 understand or you were confused about, did you ask questions
23 to your attorney or ask him to explain it to you?

24 A: Probably not because most of the time the way I am is I
25 don't like to -- how would you put that? I just -- I like to

MATTHEW RYAN BROWN - CROSS BY MS. COLEMAN

1 agree a lot. I've got a bad habit of that because I went
2 through -- through my life like that.

3 Q: Okay. But the judge explained all of this to you at the
4 plea and you never stopped him and said can you explain that
5 or I don't understand what's going on; right?

6 A: Yeah.

7 Q: Okay. Do you remember telling the judge no one was
8 promising you anything or threatening you to plead guilty?

9 A: Huh-uh. No.

10 Q: You don't remember that? Okay.

11 MS. COLEMAN: Judge, that's on page 13, just for your
12 reference.

13 THE COURT: Thank you.

14 BY MS. COLEMAN:

15 Q: Do you remember agreeing with the facts that the State
16 presented at the plea hearing?

17 A: Yeah. There were some that I did not agree with.

18 Q: Okay.

19 A: I felt intimidated when he told my lawyer and
20 everything. That intimidated me.

21 Q: Okay.

22 A: You know, because no -- no person likes courtrooms.

23 Q: But you told the judge that you were guilty of this
24 crime; right? And you're admitting today that you're guilty
25 of this crime; right?

MATTHEW RYAN BROWN - CROSS BY MS. COLEMAN

1 A: Uh-huh.

2 Q: Okay. And you apologized to the victim and her family
3 twice during the plea; right?

4 A: Uh-huh.

5 Q: Now, your attorney -- you're claiming today that he
6 didn't -- the judge wouldn't let him speak on your behalf, he
7 didn't let him talk, but your attorney did get a chance to
8 present mitigation on your behalf and explain why you should
9 get a lesser sentence; is that right?

10 A: Rephrase that again?

11 Q: Sure. Well, during the plea -- and I assume what you're
12 referring to is the judge asked you a question and your
13 attorney started to explain his answer and the judge said I
14 don't want to hear it from you, I want to hear it from him.
15 Do you remember that?

16 A: I don't comprehend.

17 Q: Okay. Well, is that the part you're talking about where
18 you said the judge wouldn't let him speak for you?

19 A: I do not recall.

20 Q: Okay. Well, after that happened, on page 15 of the
21 transcript you've got in front of you, the judge gave your
22 attorney a chance to speak to him; right? Do you remember
23 that?

24 A: No, I do not.

25 Q: Okay. What else do you think your attorney should have

MATTHEW RYAN BROWN - CROSS BY MS. COLEMAN

1 said on your behalf?

2 A: I don't know. I just think that he should have argued
3 more with the judge.

4 Q: All right.

5 MS. COLEMAN: Thank you. No further questions.

6 THE APPLICANT: All right.

7 MR. GRIFFITH: Just briefly, Your Honor, redirect.

8 REDIRECT EXAMINATION

9 BY MR. GRIFFITH:

10 Q: Mr. Brown, what it comes down to is if you had known
11 certain things, you would have gone ahead and gone to trial.
12 And so if you had known that he was not going to get a cap of
13 20 -- of 15, you would have gone ahead and gone to trial; is
14 that correct?

15 A: Rephrase the question again now?

16 Q: Would you have -- instead of pleading guilty, would you
17 have gone ahead with the trial if your attorney had done some
18 things differently that you had --

19 A: Yes.

20 Q: You would?

21 A: Yeah.

22 MR. GRIFFITH: That's it. No further questions, Your
23 Honor.

24 THE COURT: You can step down, sir.

25 MR. GRIFFITH: I have no further questions -- witnesses,

GARRYL DEAS - DIRECT BY MS. COLEMAN

1 Your Honor.

2 MS. COLEMAN: The State calls Garryl Deas.

3 THE BAILIFF: Place your left hand on the Bible and
4 raise your right hand, please, sir. Do you solemnly swear or
5 affirm to this Court to be the whole truth [sic] and nothing
6 but the truth, so help you God?

7 THE WITNESS: I do.

8 THE BAILIFF: Step around, sir. State your full name
9 and spell your last name, please, sir, for the record.

10 THE WITNESS: Yes. It's Garryl Lynard Deas. Last name
11 is spelled D-e-a-s.

12 GARRYL DEAS, being first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. COLEMAN:

16 Q: Mr. Deas, how long have you been practicing law?

17 A: For about 21 years.

18 Q: Is that primarily criminal law?

19 A: I do -- I have a general law practice. I do criminal
20 defense. I do personal injury, Worker's Comp. I do general
21 civil, probate, and some real estate.

22 Q: Were you appointed or retained in this case?

23 A: I was retained.

24 Q: Do you recall when you were retained?

25 A: Based on the records in my file, I was retained it looks

GARRY DEAS - DIRECT BY MS. COLEMAN

1 like in December of 2015.

2 Q: And the guilty plea was November of 2016; is that right?

3 A: That's correct.

4 Q: Okay. So you represented him about a year?

5 A: That's correct.

6 Q: How did these charges arise?

7 A: Well, he was arrested for criminal sexual conduct with a
8 minor, first-degree. I believe the young lady was his
9 stepchild.

10 Q: Okay. And what were the facts as the State was
11 alleging?

12 A: That over a course of time, he had engaged in sexual
13 acts with the minor child, who was, I believe, under 11.

14 Q: Did you file any Rule 5 or Brady motions?

15 A: I did.

16 Q: And did you review the discovery with the applicant?

17 A: I did. We met --

18 Q: Do you recall?

19 A: We met several times at the jail before he made bond and
20 then at some point I took him before the Court for a bond
21 hearing and he was granted a bond.

22 Q: Okay.

23 A: So he was released from -- from the detention center.

24 Q: Okay. Do you recall how many times you met with him
25 before the plea?

GARRYL DEAS - DIRECT BY MS. COLEMAN

1 A: I mean we met several times at the jail, according to my
2 notes. And after I was able to get him a bond, we met
3 several times in my office. So probably at least four to
4 five times.

5 Q: Okay.

6 A: If not more.

7 Q: Did the applicant confess his guilt to you right away?

8 A: No. Originally, he indicated to me that -- that he --
9 that he did not engage in the sexual acts with the young
10 lady, but ultimately, at one point -- I believe this was
11 after he had made bond -- he indicated to me that he -- that
12 he committed the crime.

13 Q: Okay. Did he give you any defenses or did you discuss
14 defenses with him to use at trial?

15 A: Well, actually, I think prior to him pleading -- and
16 again, I'm kind of basing it not so much on my memory but
17 just what I'm seeing here in my file. I believe this case
18 was about to be called for trial because I see where we did
19 jury -- or I have notes here relating to the jury panel.

20 Prior to that -- prior to him making his admission to
21 me, we had discussed defenses that he said he had, which was
22 simply that he did not do it, but once he made the admission,
23 it really wasn't about -- at that time, the focus wasn't
24 about a defense. It was trying to negotiate a plea deal that
25 would save him from a 25-year to life sentence.

GARRYL DEAS - DIRECT BY MS. COLEMAN

1 Q: Did you discuss with him the elements of the charges and
2 what the State was required to prove?

3 A: Yes.

4 Q: Did he seem to understand that discussion?

5 A: Yes, he did.

6 Q: Did you ever have any difficulty communicating with Mr.
7 Brown due to -- he testified today he has a learning
8 disability. Did that interfere with your representation at
9 all?

10 A: No. I mean he was -- you know, he was always coherent
11 during our conversations. He said he -- he never gave me any
12 reason to believe he couldn't -- he did not understand what
13 we were discussing. I mean this is a gentleman that -- I
14 believe he did have a learning disability I guess when he was
15 in school, but he held a job and maintained his own finances
16 and affairs. So I mean he was clearly competent and I didn't
17 have -- I had no reason to believe that he did not understand
18 our discussions.

19 Q: Did you ever have him evaluated for competency?

20 A: No.

21 Q: Okay. Can you briefly describe the evidence that the
22 State claimed to introduce at trial?

23 A: Well, they had, you know, the testimony of the -- of the
24 alleged victim. There was -- I believe there was a forensic
25 -- a forensic interview that was done of the victim that was

GARRYL DEAS - DIRECT BY MS. COLEMAN

1 going to be part of the evidence introduced at trial, but
2 their primary evidence was going to be the testimony of the
3 -- of the -- of the little girl.

4 Q: Okay. And was the victim local or was she out of state?

5 A: I believe she was out of state. I want to say she was
6 in Washington, but she was present. They flew her here for
7 the -- for the case.

8 Q: Okay.

9 A: So she was present.

10 Q: So they -- to your knowledge, they intended to present
11 her as a witness at trial?

12 A: She was available and prepared to testify was my
13 understanding from the prosecutor.

14 Q: Did you have any -- what were your discussions with the
15 applicant right before the trial when he decided to plead
16 guilty?

17 A: Well, I mean he -- we were mainly discussing the plea
18 offers that had been made by the State, which was a plea to
19 -- instead of criminal sexual conduct with a minor, first-
20 degree, which carries 25 to life, the plea proposal was
21 allowing him to plead to a lesser charge, the lesser-included
22 charge of criminal sexual conduct with a minor, second-
23 degree, which carries zero to 20, and the recommendation was
24 going to be of 15 years.

25 Q: Okay. So it was a recommendation for 15 years?

GARRY DEAS - DIRECT BY MS. COLEMAN

1 A: Correct.

2 Q: Did you ever promise him or was there ever any offer of
3 a cap of 15 years?

4 A: The State never offered a cap. The offer was allowing
5 him to plead to criminal sexual conduct with a minor, second-
6 degree, with a recommendation of a 15-year sentence.

7 Q: Did you explain that to the applicant?

8 A: Yes.

9 Q: Okay. Did he seem to understand that discussion?

10 A: He never said he didn't understand it. I told -- told
11 him what the rec -- what the plea offer was and what the
12 State's recommendation was, and he never said he didn't
13 understand it.

14 Q: Okay. And did the judge at the guilty plea explain the
15 maximum sentence and explain that he didn't have to go along
16 with the recommendation by the State?

17 A: Yeah. From my review of the transcript, the judge --
18 Judge Young clearly explained that to him.

19 Q: And what was he facing? What potential sentence was he
20 facing at trial?

21 A: If he were found guilty of the -- of the actual -- of
22 the charge he was indicted for, he was facing 25 years to
23 life, a 25-year mandatory minimum sentence up to life.

24 Q: Okay. And what was he sentenced with instead?

25 A: He was sentenced to 20 years.

GARRY DEAS - DIRECT BY MS. COLEMAN

1 Q: Okay. Did you review before the guilty plea applicant's
2 constitutional rights?

3 A: Yes. I informed him of that prior to the plea.

4 Q: Okay. Did you believe pleading guilty was in his best
5 interest?

6 A: Well, in light of the fact that he -- he admitted to the
7 crime to me and given what the potential penalty could be if
8 he were found guilty of the -- of the indicted charge, I
9 thought it was -- I thought it was in good judgment to take
10 advantage of the plea offer.

11 Q: Okay.

12 A: It potentially saved him a possible life sentence.

13 Q: Whose decision was it to plead guilty, ultimately?

14 A: I mean, as always, it's the defendant's decision.

15 Q: What, if anything, did you offer in mitigation at the
16 guilty plea?

17 A: Well, the record speaks for itself. I mean I -- I --
18 once I -- once I had the opportunity to address the Court, as
19 I typically do, I discussed my client's -- his age, his
20 educational background, his family structure, his employment
21 history.

22 I talked about the situation with his son, who -- I
23 think at the time there was a pending DSS case and the child
24 was with the grandmother and I think -- ultimately, at the
25 conclusion of the DSS case, I think the child ended up with

GARRYL DEAS - DIRECT BY MS. COLEMAN

1. the grandmother. So I discussed that.

2 I discussed the fact that he -- you know, that he was
3 very remorseful and apologetic for what happened, what he did
4 to this young lady. I indicated I believed that he did not
5 -- his main and primary focus at the time was that he just
6 did not want to expose this child to any further pain and
7 hurt, and that was -- that he did not want to put her through
8 a trial. So that's what he had expressed to me and that's
9 what I told the judge.

10 And also, I believe several of his family members -- or
11 I asked the judge if several family members and other
12 individuals that were there in support of him -- I asked the
13 judge if they could speak, and the judge allowed them to
14 speak on his behalf. And then I asked the judge if he could
15 speak on his own behalf, and he did, where he admitted to the
16 crime and also expressed his sorrow and remorse for what
17 happened.

18 Q: Do you recall during the guilty plea when the judge kind
19 of cut you off and said he wanted to hear from the applicant
20 instead of you? Do you remember that?

21 A: Yes. I remember that.

22 Q: Okay. Did you have an opportunity later in the plea to
23 offer your mitigation or clear up whatever needed to be said?

24 A: I did.

25 Q: Okay. Do you feel that you were able to tell the plea

GARRYL DEAS - DIRECT BY MS. COLEMAN

1 Court everything that you felt was necessary?

2 A: Yeah. Again, I think the record speaks for itself. I
3 was given ample opportunity to address the Court, which I
4 did, and I think I covered all the appropriate areas during
5 the plea -- plea hearing.

6 Q: Okay. Did you ever give the applicant a copy of his
7 sentencing sheet?

8 A: Well, yes. I mean he signed it. So in order for him to
9 sign it, I gave it to him and it was handed up to the Court.

10 Q: Did you send him a copy afterwards for his records?

11 A: I don't believe so. I can't say for sure. I don't -- I
12 don't think so.

13 Q: Did he ask you for one, to your recollection?

14 A: No, ma'am.

15 Q: Okay. Did he ever ask you to file an appeal?

16 A: No, ma'am.

17 Q: Did you consult with him about the opportunity to file
18 an appeal?

19 A: Well, it was discussed prior to the plea and, of course,
20 he was advised of that by the Court during his plea, you
21 know, what his appellate rights were, but I never was -- it
22 was never communicated to me by anyone after the plea, by him
23 or any of his family members, that he wanted to file an
24 appeal.

25 MS. COLEMAN: Nothing further. Thank you.

GARRY DEAS - CROSS BY MR. GRIFFITH

1 THE COURT: Mr. Griffith?

2 MR. GRIFFITH: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. GRIFFITH:

5 Q: Attorney Deas, were you aware prior to the plea of the
6 defendant's -- the applicant's learning disability?

7 A: I believe so. I can't say when I became aware, but I do
8 believe that I was -- that I knew that he had -- when he was
9 in school, that he was, like, in --

10 Q: Special ed?

11 A: -- special education classes.

12 Q: Did he at any time indicate to you --

13 A: But he does have -- he has a GED. So . . .

14 Q: Did he at any time indicate to you that he did want a
15 trial?

16 A: Yeah. Early on, you know, I guess before he took
17 responsibility for his actions and he was still denying that
18 he had engaged in this criminal conduct. Prior to that, he
19 was saying he wanted a trial, but that -- I mean, clearly,
20 going to trial would probably have not turned out well for
21 him, given the fact that he, according to his own admission,
22 did the crime.

23 And if he had tried that case and were found guilty by a
24 jury, there would have been a strong likelihood that he
25 could've gotten a life sentence or at the very minimum he was

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1 looking at a mandatory minimum of 25 years. So there was a
2 time when he discussed trial, but that was not really
3 feasible once he admitted to me that he -- that he
4 perpetrated this crime.

5 Q: Well, of course, it's always up to the client whether he
6 goes to trial or not, isn't it?

7 A: That's correct.

8 Q: And whether he realizes or doesn't realize that he may
9 get 25 years to life, if he decides to go to trial, it's
10 still his decision, isn't it?

11 A: Oh, yeah. Definitely.

12 Q: And he had indicated at one point that he wanted to go
13 to trial. According to the transcript, it sounds like the
14 jury was waiting outside. Do you recall whether or not the
15 jury -- was it jury-pick day or something?

16 A: I'm not sure if --

17 Q: Judge Young said there's a jury right out there.

18 A: Yeah. To be honest, I don't really recall if -- if we
19 had picked a jury. I think we had -- I think the jury
20 qualifications had taken place, but I don't know if we had
21 picked the jury. We may have. I just don't remember.

22 Q: But in any case, the trial was coming up, wasn't it?

23 A: Yeah. That case was -- was -- was essentially on the
24 verge of being called for trial.

25 Q: So it was a do or die, wasn't it?

GARRY DEAS - CROSS BY MR. GRIFFITH

1 A: Well, I won't say it was a do or die. It was
2 essentially a situation where either you decide to go to
3 trial or you take the plea offer that was being made by the
4 State. And ultimately, he made the decision to take the plea
5 offer.

6 Q: But up to that point, he was prepared to go to trial.
7 You guys were there for a trial, weren't you?

8 A: Yeah. I don't know what he was prepared for, but I can
9 say that day there was a -- the case was on the verge of
10 being called for trial.

11 Q: Okay. And given his learning disability, would you say
12 that -- wouldn't you say that under the circumstances, he
13 really didn't have a lot of time to think about whether he
14 wanted to go to trial or not; isn't that true?

15 A: No. I wouldn't say that. I mean the case had been pend
16 -- I mean the case had been pending for almost a year. So it
17 was on the trial docket. So -- and, you know, the case can
18 be called for trial at any point. So you always have to be
19 -- when you have a pending case, you always have to approach
20 it as if it could be called for trial at any time, and that's
21 what I told him.

22 Q: But I mean he -- what I'm saying, I guess, is it was
23 going to go to trial. He was there to go to trial. At that
24 time, you told him that he should accept the offer or you --
25 or you presented the offer?

GARRYL DEAS - CROSS BY MR. GRIFFITH

1 A: No. I just told him what the offer was and told him
2 what the -- what could -- what the outcome could be if he
3 were convicted of the indicted charge. I told him what the
4 plea proposal was from the State and tried to assist him in
5 understanding what the potential consequences are of both.

6 Q: Did you make a recommendation as to whether he should go
7 to trial or not?

8 A: No. I just told him, you know, he -- I just told him
9 what the consequences could be if he were found guilty of the
10 indicted charge, which was criminal sexual conduct, first-
11 degree, of a minor, and I told him what the -- what the
12 potential consequences were of the guilty plea.

13 And basically, you know, told him that -- that in the
14 end it's his decision. That ultimately, he's the one that
15 has to, you know, live with the consequences. He's the one
16 that has to deal with the -- with the -- with the aftermath
17 of whatever decision he makes and that I told him to think
18 about it and just let me know what he wanted to do. I told
19 him that, you know, if he wants the trial, we can go to
20 trial, but that I thought that he should really give some
21 serious consideration to both potential outcomes before he
22 made a decision.

23 Q: Did you explain to him that the judge did not have to
24 accept the recommendation?

25 A: Yes. And the judge explained it to him as well during

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1 the plea hearing.

2 Q: But knowing that he had a disability, can you be certain
3 that he understood that a judge may not accept that
4 recommendation?

5 A: Well, first of all, I don't know what the extent of any
6 disability he had -- he had or when he was a child other than
7 what he said to me regarding him being in special education
8 classes. At the time of his plea, again, I can't say for --
9 I don't know if, indeed, he is -- he would be deemed mentally
10 disabled because that was never assessed by a -- by an
11 expert.

12 So I can't say what I knew from the standpoint of his
13 disability or the extent of it. What I can say is just based
14 on my professional experience after doing this for 20+ years,
15 he was competent. He knew -- this was a gentleman who has a
16 GED, who had -- who maintained employment, who handled his
17 own affairs. So he understood our conversations.

18 So he was competent to stand trial from my perspective
19 and he certainly understood our discussions and what was
20 going on during this process. So if -- so there was -- I
21 wasn't concerned about him understanding. He never said to
22 me he didn't understand what we were -- what our discussions
23 -- he never said to me he didn't understand -- he didn't
24 understand our discussions.

25 He never said to the Court he didn't understand our

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1 discussions. He never said during the plea that he didn't
2 understand what the judge was telling him. You know, there
3 was never any indication from Mr. -- from Mr. Brown that his
4 -- the fact that he took special education classes when he
5 was a child, that that somehow prevented him from
6 understanding this process or my discussions with him.

7 So that never really was a concern of mine during the
8 entire time I represented him. It wasn't a concern of mine
9 during his plea or the events leading up to it.

10 Q: So how many times did you speak to him prior to this
11 plea?

12 A: Well, it looks like -- again, I started representing him
13 in December of 2015. Based on what I'm seeing here in my --
14 in my file and in my records, it was at least four to five
15 times, but it could have been more.

16 Q: When you spoke to him -- and, of course --

17 A: But there would be times when, once he was out on bond,
18 he would just come by the office and ask to speak to me and
19 I'd speak with him. So --

20 Q: Okay. So having spoke to him, you had an opportunity to
21 observe his demeanor?

22 A: Yeah.

23 Q: Did you?

24 A: Uh-huh.

25 Q: And did you have an opportunity today while he was on

GARRYL DEAS - CROSS BY MR. GRIFFITH

- 1 the stand to observe his demeanor? You did, didn't you?
- 2 A: Yes.
- 3 Q: And didn't that demeanor seem about the same as when he
- 4 would come into your office and speak to you?
- 5 A: No. It seemed a little different today.
- 6 Q: Why would you say that?
- 7 A: I don't know. It just was. It just seemed different to
- 8 me.
- 9 Q: In what way?
- 10 A: He was a little less responsive today. I mean normally
- 11 Mr. Brown, you know, will respond to questions you ask him.
- 12 He will, you know, discuss issues and, if he has questions,
- 13 he'll ask. He's not what I would call a man that's -- that's
- 14 short on words. At least he wasn't during the time that I
- 15 dealt with him.
- 16 Q: Now, you took this plea before Judge Young?
- 17 A: Yes.
- 18 Q: Had you been before Judge Young before this?
- 19 A: Yes. Many times.
- 20 Q: Many times?
- 21 A: Yeah.
- 22 Q: Did you --
- 23 A: In civil court, criminal court, as a Family Court judge
- 24 because I do Family Court as well. I have appeared in front
- 25 of Judge Young, as I said, as a Family Court practitioner

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1 when he was -- when he was a Family Court judge. I've

2 appeared before him when he was a Circuit Court judge, not

3 only for criminal court, but for civil court as well.

4 Q: So you had appeared before -- before him many times in
5 criminal court, isn't that true?

6 A: Yes.

7 Q: And so you had a pretty good idea of Judge Young's modus
8 operandi, as you call it, of giving people the maximum amount
9 of sentence as often as possible? Weren't you aware of that?

10 A: Well --

11 Q: Let's just say quite often.

12 A: Well, I certainly don't know the statistics on what his
13 sentences are; so I'm not going to speculate on that, but,
14 you know, as a --

15 Q: But he used to be pretty -- pretty rigid, didn't he?

16 A: Well, as a criminal defense lawyer, I think, you know,
17 you have an understanding of -- of the tendency of judges
18 when it comes to sentencing.

19 Q: And so why didn't you ask for a negotiated plea of 15
20 years rather than just a recommendation?

21 A: I did. That's not what was -- I asked, but that's not
22 what was proposed by -- that's not what the solicitor would
23 agree to.

24 Q: Okay. So you did ask for one?

25 A: Yes.

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GARRYL DEAS - CROSS BY MR. GRIFFITH

1 Q: But the solicitor did not agree to a negotiated plea?

2 A: Correct. And anyone who is familiar with Judge Young,
3 he doesn't do negotiated sentences. So even if the solicitor
4 had agreed to my request for a negotiated sentence, Judge
5 Young's practice at the time was that he didn't -- he
6 wouldn't accept negotiated sentences.

7 Q: Do you recall Mr. Brown in the courtroom telling you
8 that he would like for you to file a notice of appeal?

9 A: No. I don't recall that at all.

10 Q: Do you recall his family members telling you that they
11 would like for you to file notice of appeal?

12 A: I do not recall that either. And I -- and I looked
13 through my file. I looked through to see if I got a letter
14 or something from Mr. Brown asking for an -- asking that I
15 file an appeal. I didn't see anything, and I don't recall
16 him saying that.

17 I think my recollection is at that time of his plea, he
18 was more or less just focusing on the fact that he was sorry
19 for what he did. He was very remorseful. He talked numerous
20 times during the plea about how he did not want to put this
21 child through a -- through a trial. He did not want to cause
22 her any more harm or pain. That was what he -- he focused on
23 and that was what I recall him talking to me about.

24 Q: Okay. One last question. Do you think that he would
25 have been found guilty had he gone to trial?

GARRY DEAS - CROSS BY MR. GRIFFITH

1 A: I think it was a strong likelihood that he would have
2 been found guilty.

3 Q: Okay.

4 A: I can't say guaranteed because you don't know. You
5 never know what the outcome of a trial will be, but I think
6 it was a very strong likelihood that he would have been found
7 guilty.

8 MR. GRIFFITH: I have no further questions, Your Honor.

9 MS. COLEMAN: Just briefly.

10 REDIRECT EXAMINATION

11 BY MS. COLEMAN:

12 Q: Mr. Deas, do you recall when the State offered the plea
13 deal that he ended up accepting?

14 A: If you can bear with me for just a moment?

15 Q: Sure.

16 A: Well, I know that the customary -- what was customary at
17 the time for the Solicitor's Office and still is is you would
18 -- they would email you a plea offer and they'd give you a
19 deadline upon which you have to accept it. And if you don't,
20 then the plea offer would be withdrawn. Now, I was looking
21 here through my file to see if I had a copy of that email so
22 that I wouldn't have to speculate about when I received it.

23 Q: Uh-huh.

24 A: Well, here we go. It was on April the 18th of 2016.
25 That was the acceptance deadline. That was the acceptance

GARRYL DEAS - REDIRECT BY MS. COLEMAN

1. deadline and the -- it looks like the plea offer was made on
2. March the 9th.

3. Q: Okay.

4. A: Of 2016.

5. Q: And he pled on November 14th, 2016; is that right?

6. A: Right. And in actuality -- yeah. He pled on -- yeah.

7. He pled November 14th, 2016.

8. Q: Okay. So you said the offer expired April 18th. Did you
9. miss the deadline for that --

10. A: That's right.

11. Q: -- or did he refuse?

12. A: That's right. In actuality, we didn't -- because at
13. that time he still really wasn't wanting -- at that time, he
14. wasn't wanting to plead and he was still saying he wasn't
15. guilty and that he -- he had not admitted at that point that
16. he engaged in this criminal activity.

17. Q: So --

18. A: So we essentially rejected the plea offer and I guess
19. the -- the -- I guess the plan at that time was to go to
20. trial.

21. Q: Okay. But eventually the State, I guess, reoffered the
22. same plea deal?

23. A: Well, actually, they -- they didn't offer quite the same
24. plea deal because the original plea deal was for 12 years.
25. It was a recommendation of 12 years.

GARRYL DEAS - REDIRECT BY MS. COLEMAN

1 Q: Okay.

2 A: But when they -- because I -- because we didn't accept
3 it by the deadline and because it was essentially on the eve
4 of trial, he went ahead and made a recommend -- he went ahead
5 and offered another plea deal, but he -- instead of 12 years,
6 he recommended 15.

7 Q: Okay.

8 A: And I --

9 Q: So the offer that he ended up accepting, the State
10 offered that on the eve of trial?

11 A: That's my -- that's my recollection. Again, if I'm --
12 just based on what I see here in my notes and looking at the
13 transcript, I believe we were, like, right on the verge of
14 trial.

15 Q: Okay. Would he have had a day or two to think about it
16 or was it the morning of trial?

17 A: I -- I don't remember.

18 Q: Okay.

19 A: I don't remember if it was, like, the morning of trial,
20 but, like I said, I think it was -- we were in trial week and
21 I think his case was going to be the -- the first one called
22 and, you know, normally, they don't -- you know, normally --
23 or at least the practice is if you don't -- if you get to
24 that point, there are no plea deals. You know, at that
25 point, you can plead, but it'll be straight up. It'll be a

GARRY DEAS - REDIRECT BY MS. COLEMAN

1 straight up plea to whatever the indicted charge is.

2 But Mr. Matthews, who was the assistant solicitor -- he
3 came to me and even though their practice is that they don't
4 make plea offers at that point, based on some discussions he
5 and I had, he put a -- put another plea proposal on the
6 table. But typically, at that point, there's -- you either
7 plea straight up or go to trial.

8 Q: Okay. Now, he -- you were questioned a few moments ago
9 about Judge Young and his potential severity in sentences.
10 Did you have any choice when it came to choosing your plea
11 judge in this matter?

12 A: No. Because he was -- he was -- he was going to be the
13 trial judge, which means he's also going to be the judge you
14 plead in front of. And quite frankly, you know -- you know,
15 you can't really predict anyway what a judge is going to do
16 sentence-wise. The only way you know for sure is if it's
17 negotiated and if -- and if the judge is willing to take it
18 as a negotiated plea. Every plea is -- is -- the potential
19 outcome is uncertain unless it's negotiated.

20 Q: And all judges in theory are supposed to be fair and
21 impartial for every proceeding; right?

22 A: That's correct.

23 Q: Okay. So if you had moved to continue it just to get a
24 different judge for the plea, would you have been successful?

25 A: Well, I don't know if I would've been. Probably not

GARRYL DEAS - REDIRECT BY MS. COLEMAN

1 because -- but I don't -- you know, to me, you don't make
2 motions for continuance on that basis because that's -- to
3 me, that's not appropriate, but I guess if -- you know, at
4 the time, even if I had requested a continuance, the
5 likelihood is it would have been denied.

6 MS. COLEMAN: Thank you. Nothing further.

7 MR. GRIFFITH: No further questions, Your Honor. He can
8 be excused.

9 THE COURT: Thank you, Mr. Deas.

10 THE WITNESS: Thank you.

11 MS. COLEMAN: The State has no further witnesses. And
12 if Your Honor would like a brief closing argument?

13 THE COURT: Sure. I'm glad to hear from you.

14 MR. GRIFFITH: Your Honor, Mr. Brown has demonstrated
15 while he was on the stand he may have been, I believe,
16 pressured to accept the plea offer in kind of a last-minute
17 thing. He said he would have gone to trial had certain
18 things not happened that way.

19 Although I have warned him of the consequences of
20 perhaps going to a trial that he may, indeed, have been found
21 guilty, just as his original attorney helped him, but he
22 would like the Court to certainly consider a PCR -- granting
23 him his PCR for a new trial.

24 THE COURT: Thank you.

25 MS. COLEMAN: Your Honor, the applicant has not

1 presented any -- any proof or any mental evaluations or
2 anything today of his disability in a way that would affect
3 his understanding of the process or anything that would've
4 affected the validity of his guilty plea. I would ask you to
5 consider that as well.

6 Plea counsel testified he had no trouble communicating
7 with the applicant. He didn't find -- he didn't have any
8 reason to suspect that there was a competency issue,
9 especially at the time that he represented him. He said he
10 -- he discussed the issues with him and had meaningful
11 conversations about the issues at the end.

12 He also testified that he did not promise the applicant
13 any kind of cap of 15 years, and he explained to him that the
14 judge did not have to accept the State's recommendation.

15 So I believe the record shows and the testimony today
16 shows that Mr. Brown was well aware of the potential
17 consequences of pleading guilty, and I don't think he's
18 proven that he really would've wanted to go to trial rather
19 than plead guilty because it was his decision to do that at
20 that time.

21 Plea counsel offered -- also offered mitigation on the
22 applicant's behalf, quite a lengthy mitigation in the plea
23 transcript there, and he offered three -- three family
24 members who testified on the applicant's behalf in mitigation
25 at the plea, and I think he did everything he should have

1 and could have on applicant's behalf and the outcome was
2 within the legal sentencing ranges and applicant was aware of
3 what could've happened.

4 So we would ask you to deny post-conviction relief.
5 Thank you.

6 THE COURT: Thank you. It's my general practice that
7 I'm not going to rule on the application today. I mean I'm
8 going to take it under advisement.

9 MR. COLEMAN: Great.

10 THE COURT: Thank you.

11 MS. COLEMAN: Thank you, Your Honor.

12 MR. GRIFFITH: Thank you, Your Honor.

13 (WHEREUPON, the proceedings ended at 12:50 p.m.)

14

15 --- END REQUESTED TRANSCRIPT ---

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

Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

RECORDED

2018 AUG 29 PM 3:37

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

Matthew Ryan Brown, #370550,

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

2017-CP-43-1835

CERTIFIED TRUE COPY
OF ORIGINAL FILED

Applicant,

v.

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on October 10, 2017. Respondent submitted its Return on June 21, 2018. An evidentiary hearing into the matter was convened on July 24, 2018, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Timothy Griffith, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from Garryl Deas, Esquire ("Plea Counsel"). This Court had before it the records of the Sumter County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

The records before this Court indicate Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. Applicant was indicted at the March 2016 term of the Sumter County Grand Jury for first-degree criminal sexual conduct with a minor (2016-GS-43-0336). The charges stem from the disclosure

by the victim, Applicant's step-daughter, on December 12, 2015 that Applicant had been touching her inappropriately for approximately three years. The acts began when the victim was six years old and continued over the span of about three years. The sexual battery which was the basis for the indictment and plea was an act of cunnilingus that Applicant performed on the victim in approximately September to October of 2015. Tr. 6-8.

Garryl Deas, Esquire, represented Applicant, and Assistant Solicitor J. Scott Matthews, Esquire, prosecuted the case. On November 14, 2016, Applicant pled guilty to second-degree criminal sexual conduct with a minor before the Honorable W. Jeffrey Young. Judge Young sentenced Applicant to imprisonment for twenty years. Applicant did not appeal his guilty plea or his sentence.

II. ALLEGATIONS

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

1. "My attorney did not do what I ask him."
2. "The judge told my attorney to be quiet he did not want to hear from him."
3. "My attorney did not say anything to the judge on my behalf."
4. "My attorney never gave me my sentencing seat (sic)."

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

Applicant's testimony

At the evidentiary hearing, Applicant testified that his family hired Plea Counsel to represent him on his charges. He stated he thought the crime he was charged with carried zero to fifteen years in prison, and he did not know there was no cap on his potential sentence. He stated he would have gone to trial rather than pleading guilty if he had known there was no cap of fifteen years. Applicant testified that he asked Plea Counsel to file an appeal, but Plea Counsel told his

family it would not be in his best interest for him to represent Applicant anymore, and to hire someone else for the appeal.

Applicant testified that Plea Counsel tried to say something on his behalf at the guilty plea, but the plea judge shut him down. He stated that Plea Counsel should have spoken more on his behalf. Applicant testified Plea Counsel told him the Solicitor was going to recommend a fifteen year sentence, and he broke down the plea offer to him before the guilty plea. He testified he did not want to plead guilty before Judge Young because he is a harsh judge who gives maximum sentences. Applicant testified he was pressured into pleading guilty. He stated he probably did not ask his attorney to explain things to him because he has a learning disability.

Plea Counsel's testimony

At the evidentiary hearing, Plea Counsel testified that he has been practicing law for twenty-one years, and he was retained to represent Applicant almost a year before his plea. He stated he met with Applicant several times, and the case was about to be called for trial when Applicant decided to plead guilty. He stated he had no difficulty communicating with Applicant and there was no reason to believe Applicant did not understand their conversations. Plea Counsel testified the State never offered a cap of fifteen years, but the offer he accepted was for a recommendation of fifteen years.

Plea Counsel testified that Applicant admitted his guilt to him during his representation, so he began to negotiate favorable plea offers. He testified that he spoke on Applicant's behalf at the guilty plea and offered an extensive background in mitigation, as well as the testimony of three of his family members. He testified that, even though the plea judge cut him off at one point during the plea, he had the opportunity to speak later, and he had ample opportunity to speak on Applicant's behalf. Plea Counsel testified that he never told Applicant there was a cap of fifteen

years, and he did explain to Applicant that the judge did not have to accept the State's recommendation. He stated that Applicant never told him to file an appeal, and Applicant's family never communicated to him about an appeal. He stated that a trial probably would not have worked out well for Applicant, and he was facing twenty-five years or up to life in prison at trial.

Plea Counsel testified that, based on his experience, he believed Applicant was competent to stand trial and he understood their discussions and what was going on. He stated Applicant never told him he did not understand anything, and there was never any indication that he was prevented from understanding, so it was not a concern for him. He testified Applicant usually responded to him and would discuss the issues with him. Plea Counsel testified that he asked for a negotiated plea, but the Solicitor refused to make such an offer. He further testified believed Judge Young would not likely have accepted a negotiated plea because it was his practice not to accept such pleas. He testified there was a strong likelihood that Applicant would be found guilty at trial.

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). 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, (1984); Butler, 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, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. 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. With respect to guilty pleas, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Plea Counsel was ineffective in his representation surrounding his guilty plea. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by

showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

After considering the testimony, judging the credibility of the witnesses, and reviewing the materials presented to the court, this Court finds Applicant has failed to meet his burden in proving Plea Counsel was ineffective in any regard. Plea Counsel credibly testified he did not tell Applicant he would have a sentencing cap of fifteen years, and he fully explained, and the plea judge explained as well, that the judge did not have to accept the State's recommendation. He testified it was Applicant's decision to plead guilty, and Applicant understood all their conversations and was fully aware of the risks and benefits of pleading guilty. The guilty plea transcript shows Plea Counsel presented three family members to speak on Applicant's behalf and a large amount of information for mitigation purposes. Plea Counsel had ample opportunity to speak on Applicant's behalf and was not restricted by the plea judge in any manner. Applicant has failed to present any credible evidence that Plea Counsel did not do what he asked of him or was ineffective in any way.

This Court finds Plea Counsel's representation and advice was reasonable under the circumstances and nothing he did was outside the scope of reasonable professional norms. Plea Counsel fully represented his client and advised him based on his best interests and what Applicant told him he wanted, which was to plead guilty. Accordingly, Applicant has failed to prove that Plea Counsel was deficient or that he would have gone to trial but for these deficiencies, and post-conviction relief is denied.

VI. CONCLUSION

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

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 28th day of August, 2018.

Sunder, South Carolina


 KRISTI F. CURTIS
 Presiding Judge
 Third Judicial Circuit

WITNESSES

O. Washington

Sumter County Sheriff

T. Mims

SCSO

DOCKET NO. 2016-GS-43-0336

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

March

TERM

2016

THE STATE

vs.

MATTHEW RYAN BROWN

ARREST WARRANT NUMBER

2015A4310100886

ACTION OF GRAND JURY

Indictment for

Criminal sexual conduct with minor or Attempt - victim
under 11 yrs of age - First degree

Foreperson of Grand Jury

Date:

3/17/16

VERDICT

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

INDICTMENT FOR

Criminal sexual conduct with minor or Attempted Rape of a Minor
yrs of age - First degree OF ORIGINAL FILE

Barbara Stange
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

At a Court of General Sessions, convened on March 17, 2016 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE-CRIMINAL SEXUAL CONDUCT WITH A MINOR-1ST DEGREE

That in Sumter County, South Carolina, on or about December 1, 2013 through December 12, 2015, the Defendant,
Matthew Ryan Brown, date of birth [REDACTED] 1983, did commit a sexual battery upon a minor who was less than
eleven years of age, to wit: digital penetration and/or cunnilingus upon Minor [REDACTED], date of birth [REDACTED] 2006,
in violation of Section 16-3-655, Code of Laws of South Carolina, 1976, as amended.

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

Solicitor

Ernest A. Finley III

STATE OF SOUTH CAROLINA

COUNTY OF Sumter
 STATE VS.
Matthew Ryan Brown
 AKA:
 Race: White Sex: M Age: 33
 DOB: 1983 SS#:
 Address:
 City, State, Zip: Sumter, SC 29154
 DL#: SID#:

*ODL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second

in violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code #

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury

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

ATTEST: Scott Matthews
Matthews, Jonathan S.
 SC Bar#

101464
Matthew Brown
 Defendant

Matthew Brown
 Attorney for Defendant

12475
 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections, 9 months

☒ The Defendant is to be placed on the 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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ 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/Probation) \$500 \$
 § 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/cn \$
 3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: James C. Campbell

Court Reporter: Elizabeth Davis

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016-GS-43-0336

A/W#: 2015A4310100886

Date of Offense: 12/1/2013

S.C. Code §: 16-03-0655(A)(1)

CDR Code #: 0385

SENTENCE SHEET

CERTIFIED TRUE COPY
 OF ORIGINAL FILE

☐ CONVICTED OF or ☐ PLEADS

DEPUTY CLERK OF COURT

17-25-45
 w/minor 1st or 2nd Act)

(defendant's initials)

Recommendation by the State.

ATTEST: Scott Matthews
Matthews, Jonathan S.
 SC Bar#

101464
Matthew Brown
 Defendant

Matthew Brown
 Attorney for Defendant

12475
 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
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months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections, 9 months

☒ The Defendant is to be placed on the 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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

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Clerk of Court/ Deputy Clerk: James C. Campbell

Court Reporter: Elizabeth Davis

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016-GS-43-0336

A/W#: 2015A4310100886

Date of Offense: 12/1/2013

S.C. Code §: 16-03-0655(A)(1)

CDR Code #: 0385

SENTENCE SHEET

CERTIFIED TRUE COPY
 OF ORIGINAL FILE

☐ CONVICTED OF or ☐ PLEADS

DEPUTY CLERK OF COURT

17-25-45
 w/minor 1st or 2nd Act)

(defendant's initials)

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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

Total: \$ plus 20% fee: \$

Payment Terms:

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Recipient:

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 3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: James C. Campbell

Court Reporter: Elizabeth Davis

SCCA/217 (07/2016)

PTUP

days/hours Public Service Employment

Obtain GED ☐

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:

☐ 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

Judge Code: 2156

Sentence Date: 11-14-16

ARREST WARRANT

2015A4310100886

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Sumter

THE STATE

15177504

against

Matthew Ryan Brown

Address:

Sumter, SC 29154

Phone:

SSN:

Sex: M Race: W Height: 6'1 Weight: 165

Date: SC DL #:

DOB: 1/1983 Agency ORI #: SC0430000

Prosecuting Agency: Sumter County Sheriff

Prosecuting Officer: O Washington - 0306

Offense: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Offense Code: 0385

Code/Ordinance Sec: 16-03-0655(A)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to

defendant Matthew Ryan Brown

on 12-17-2015

Signature of Constable/Law Enforcement Officer 0622

RETURN WARRANT TO:

court date
General Sessions
215 N. Harvin St.
Sumter, SC 29150

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Sumter

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA-518

Personally appeared before me the affiant O Washington

being duly sworn deposes and says that defendant Matthew Ryan Brown

did within this county and state on or about 12/1/2013

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

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:

That on and between December 1, 2013 and December 12, 2015, at 4035 Golden Bay Dr, in the County of Sumter, one Matthew Ryan Brown did engage in sexual battery by touching a 7 year old female minor in the vaginal area. The defendant did attempt to force the minor victim to perform oral sex on him on several different occasions. The victim being less than eleven years old and the defendant being more than three years older. The victim has provided Law Enforcement with a forensically obtained statement implicating the defendant. Law Enforcement will attest to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Sumter

Affiant's Address: Po Box 430
Sumter, SC 29151-
Affiant's Telephone (803)436-2000

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 or about 12/1/2013

defendant Matthew Ryan Brown

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Sumter

) as set forth below.

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Having found probable cause and the above affiant having sworn before me, 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
Sworn to and subscribed before me
on 12/16/2015Signature of Issuing Judge
George Roosevelt Gibson
Judge Code: 5691

(L.S.)

Judge's Address 190 E. Canal Street
Sumter, SC 29151-1428

Judge's Telephone (803)436-2280

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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