

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Lexington County

Honorable J. Derham Cole, Circuit Court Judge

RICHARD LEE BOATWRIGHT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001818

APPENDIX

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1 State of South Carolina) In the Court
2 County of Lexington) Of General Sessions

3
4 Indictment No.: 2014-GS-32-1105
5 2014-GS-32-1316
6 2015-GS-32-2248
7 2015-GS-32-2250

8 State of South Carolina,)
9 Plaintiff.)

10 vs.)

11 Transcript of Record

12 Richard Lee Boatwright,)
13 Defendant.)

14 April 25-26, 2016
15 Lexington, South Carolina

16 B E F O R E:

17 The Honorable R. Knox McMahon, Judge, and a jury.

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

19 Suzanne Mayes, Assistant Solicitor
20 Rhonda Patterson, Assistant Solicitor
21 Attorneys for the State

22 Elizabeth C. Fullwood, Esquire
23 Sarah H. Mauldin, Esquire
24 Attorneys for the Defendant

25 Brenda J. Sigwald, Circuit Court Reporter
To The Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

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1
2 MONDAY, APRIL 26, 2017

3 THE COURT: All right. Solicitor, you may call
4 your first case for trial.

5 MS. MAYES: May it please the Court, may we
6 approach?

7 THE COURT: Yes, ma'am.

8 (There was a bench conference out of the hearing of
9 the jury panel and the Court Reporter.)

10 MS. MAYES: Your Honor, before the Court is
11 2014-GS-32-11-05. The State of South Carolina versus
12 Richard Lee Boatwright. This indictment is for criminal
13 sexual conduct with a minor in the second degree.
14 Indictment Number 2014-GS 32-1316, the State versus Richard
15 Lee Boatwright, the indictment is for criminal sexual
16 conduct with a minor third degree; Indictment Number
17 2015-GS-32-2248, the State versus Richard Lee Boatwright.
18 This indictment is for sexual exploitation of a minor,
19 third degree; Indictment Number 2015-GS-32-2250, the State
20 versus Richard Lee Boatwright, the indictment is for sexual
21 exploitation of a minor third degree.

22 Your Honor, Mr. Boatwright is present in court and
23 represented by counsel.

24 THE COURT: Thank you, thank you, Solicitor.

25 Ms. Fullwood, Ms. Hahn -- excuse me, Ms. Fullwood,

1 Ms. Mauldin, do y'all represent Mr. Boatwright?

2 MS. FULLWOOD: We do, Your Honor.

3 THE COURT: Is Mr. Boatwright present?

4 MS. FULLWOOD: Yes, sir. He's right here.

5 THE COURT: And ready for trial?

6 MS. FULLWOOD: He is, Your Honor.

7 THE COURT: Thank you, thank you very much.

8 **JURY VOIR DIRE**

9 THE COURT: Ladies and gentlemen of the jury panel,
10 if you would please give me your complete and undivided
11 attention. We're now going to go through a procedure where
12 by we select a trial jury for this specific case. As a
13 result of that, I will ask you certain questions to
14 determine your eligibility and your qualifications to serve
15 as members of this specific jury panel. I would ask you to
16 please realize that you are still under your oath that has
17 previously been administered to you by our clerk of court.

18 As part of this procedure, I am going to publish
19 or read to you the indictments because of certain questions
20 I must ask you to determine your qualifications. The
21 indictments, ladies and gentlemen, are not evidence. The
22 indictments are the formal charging documents by which an
23 individual is placed on notice of the charges that have
24 been brought against him or her. The indictments contain
25 mere allegations and in no sense are they evidence of the

1 allegations contained therein.

2 The first indictment I come to is 2014-GS-32-01105,
3 the State versus Richard Lee Boatwright. The indictment
4 reads that Richard Boatwright, date of birth, [REDACTED],
5 1967, being a person over 14 years of age did in Lexington
6 County South Carolina on or about February 1, 2012 through
7 August 1, 2012 willfully and lewdly commit or attempt to
8 commit a lewd and lascivious act upon or with the body or
9 its part, of a child under 16 years of age, with the intent
10 of arousing, appealing to, or gratifying the lusts or
11 passions or sexual desires of himself or of the child; to
12 wit, touching of a sexual nature involving the child, Minor
13 , date of birth, [REDACTED]/2000; furthermore, the said
14 child was under the age of 14 during the time of these
15 offenses in violation of Section 16-3-655(c) of the South
16 Carolina Code of Laws, 1976 as amended, this being a charge
17 of criminal sexual conduct with a minor in the third
18 degree.

19 The next indictment, 2014-GS-32-01105, alleges that
20 Richard Lee Boatwright did, in Lexington County, on or
21 about February 1st 2012 through August 1, 2012 willfully
22 and unlawfully commit the offense of criminal sexual
23 conduct with a minor in the second degree by engaging in
24 sexual battery with a minor who was 14 years of age or
25 less, but who was at least 11 years of age, to wit, sexual

1 intercourse and/or genital intrusion upon Minor ,
2 date of birth [REDACTED]/2000, in violation of 16-3-655(b)1, of
3 the South Carolina Code of Laws, 1976 as amended. That is
4 a charge of criminal sexual conduct with a minor in the
5 second degree.

6 The next indictment, 2015-GS-32-02250, reads that
7 Richard Lee Boatwright, a person over the age of 18 years,
8 did in Lexington County, South Carolina, on about February
9 1st 2012 through December 10th, 2013 commit the offense of
10 third degree sexual exploitation of a minor unlawfully and
11 while knowing the character or content of the material, did
12 possess material that contained a visual representation of
13 a minor engaged in sexual activity; to wit, photographs
14 and/or digital images of unknown minor females under the
15 age of 18 engaged of sexual activity in violation of 16
16 -15-375(5). That is a charge of sexual exploitation of a
17 minor in the third degree.

18 The next indictment, 2015-GS-32-02248, alleges that
19 Richard Lee Boatwright, a person over the age of 18 years
20 did in Lexington County, on or about February 1st, 2012
21 through December 10th, 2013 commit the offense of third
22 degree sexual exploitation of a minor unlawfully and while
23 knowing the character or the content of the material did
24 possess material, that is contain a visual representation
25 of a minor engaging in sexual activity; to wit photographs

1 and/or digital images of a minor child, Minor ,
2 [REDACTED]/2000, engaged in sexual activity in violation of
3 16-15-375(5) of the South Carolina Code of Laws 1976 as
4 amended. That is a charge of sexual exploitation of a
5 minor in the third degree.

6 The State is represented by assistant solicitors,
7 Suzanne Mayes and Rhonda Patterson. If y'all would please
8 stand, introduce yourselves to the jury panel and any other
9 members of the solicitor's staff that will assist you in
10 the trial of this case.

11 MS. MAYES: Yes, sir, Your Honor. My name is
12 Suzanne Mayes, and I am assistant prosecutor here in the
13 11th Judicial Circuit.

14 MS. PATTERSON: And I'm Rhonda Patterson, I'm also
15 assistant solicitor here in the 11th Circuit Solicitor's
16 Office.

17 MS. MAYES: We also have with us Investigator Jill
18 Smith with the solicitor's office, and victim advocate,
19 Wendy Frazier, also with the solicitor's office.

20 THE COURT: Thank you. Thank you, Solicitor.

21 Mr. Boatwright is represented by Ms. Fullwood and
22 Ms. Mauldin.

23 If you would please stand, introduce yourselves and
24 your client to the jury panel.

25 MS. FULLWOOD: Yes, sir.

1 Ladies and gentlemen, I'm Beth Fullwood and I'm one
2 of Mr. Boatwright's attorneys, he is standing to my left.

3 MS. MAULDIN: I'm Sarah Mauldin, I'm assisting Ms.
4 Fullwood on this case.

5 MS. FULLWOOD: Thank you, Your Honor.

6 THE COURT: And did you introduce -- you introduce
7 Mr. Boatwright?

8 MS. FULLWOOD: Yes, sir.

9 THE COURT: All right. Thank you. Thank you.

10 Is any member of the jury panel related by blood or
11 marriage close personal friends, have any business,
12 personal, professional relationship with any of the
13 attorneys involved in the trial of this case: Assistant
14 Solicitor's Mayes or Patterson, or Ms. Fullwood or Ms.
15 Mauldin? If so, please stand.

16 (No one stood.)

17 THE COURT: Has any member of the jury panel or any
18 member of your immediate family ever been involved in the
19 trial of a case in which either Assistant Solicitors Mayes,
20 Patterson, Ms. Fullwood, Ms. Mauldin represented you, a
21 member of your immediate family or represented the opposing
22 party in the trial of that case? If so, please stand.

23 (No one stood.)

24 THE COURT: Is any member of the jury panel related
25 by blood or marriage or close personal friends of any

1 employee of the Lexington County Solicitor's Office? If
2 so, please stand.

3 (A juror stood.)

4 THE COURT: Your number and name, please?

5 THE JUROR: 32, Jean Burke-McIntyre.

6 THE COURT: And your friendship, relationship,
7 kinship?

8 THE JUROR: We are personal friends with Donnie
9 Myers.

10 THE COURT: Given the fact that you are personal
11 friends -- and I take it when you say we, you're speaking
12 of your family?

13 THE JUROR: My spouse and I.

14 THE COURT: All right. That you are personal
15 friends with Mr. Myers, can you be a fair and impartial
16 juror in the trial of this case for both the State and
17 Mr. Boatwright?

18 THE JUROR: I believe I can.

19 THE COURT: And when you say you believe you can
20 and never been on jury duty before, is that just semantics?

21 THE JUROR: Oh, I believe I can. I mean, I have --
22 I can listen to both sides of the story.

23 THE COURT: Thank you, thank you very much, I
24 believe you can stay with us.

25 Yes, ma'am, your number and name, please?

1 THE JUROR: 199, Jennifer Spence. My ex-husband
2 had a lot of dealing with Donnie Myers and helped him
3 investigate cases. And I don't think that I could be --

4 THE COURT: Step up here for me, please. They have
5 these fans going and I can't quite hear. Just step up to
6 the podium to the microphone right here, please.

7 (The juror came to the podium.)

8 THE JUROR: Right here?

9 THE COURT: Yes, ma'am. Tell me your number and
10 name, please:

11 THE JUROR: 199.

12 THE COURT: Okay.

13 THE JUROR: Jennifer Spence. My ex-husband had a
14 lot of dealings with Donnie Myers. He helped him
15 investigate cases privately, and I just didn't know if it
16 would make any difference.

17 THE COURT: And who is your ex-husband?

18 THE JUROR: Ben Spence.

19 THE COURT: All right. Given that fact, can you be
20 a fair and impartial juror in the trial of this case for
21 both Mr. Boatwright and the State?

22 THE JUROR: Yes, sir.

23 THE COURT: Thank you. You may stay with us.

24 Any others?

25 (No one stood.)

1 THE COURT: Is any member of the jury panel related
2 by blood or marriage, close personal friends, have any
3 social, business, professional relationship, or know
4 Richard Lee Boatwright, the named defendant in this case
5 who has been introduced to you. If so, please stand.

6 (No one stood.)

7 THE COURT: Is any member of the jury panel related
8 by blood or marriage, close personal friend, have any
9 business, social, or professional relationship with the
10 named individual in this indictment, Minor or any
11 member of her family? If so, please stand.

12 (No one stood.)

13 THE COURT: The indictment alleges incidents of
14 criminal sexual conduct with a minor second degree,
15 criminal sexual conduct with a minor in the third degree,
16 sexual exploitation in the third degree, two counts. It
17 alleges it occurred in Lexington County between February
18 1st 2012, December 10th, 2013. There are other dates
19 February 1st, 2012 through August 1st, 2012. Does any
20 member of the jury panel have any knowledge about the facts
21 of this case from any source whatsoever? If so, please
22 stand.

23 (No one stood.)

24 THE COURT: Does any member of the jury panel have
25 any bias or prejudice towards the parties, that being

1 either Mr. Boatwright or the State, or the subject matter
2 involved in the case? If so, please stand.

3 (Jurors stood.)

4 THE COURT: Your number and name, please.

5 THE JUROR: 20, Andrea Blackwell.

6 THE COURT: All right. Step up here to my court
7 reporter for me, please.

8 (The juror stepped up for a bench conference with
9 the Court on the record.)

10 THE COURT: Tell me again your number and name. I
11 couldn't quite hear.

12 THE JUROR: 20, Andrea Blackwell.

13 THE COURT: All right. And tell me your situation.

14 THE JUROR: I was abused --

15 THE COURT: You were abused?

16 THE JUROR: Yes.

17 THE COURT: And may I ask, as a child?

18 THE JUROR: Yes, sir.

19 THE COURT: All right. Given that fact can you be
20 a fair and impartial juror in the trial of this case for
21 both Mr. Boatwright and the State?

22 THE JUROR: I'm not sure that I could.

23 THE COURT: All right. And tell me that number
24 again.

25 THE JUROR: 20.

1 THE COURT: All right. I'm going to excuse Number
2 20 from the trial of this case.

3 You need to remain with us --

4 THE JUROR: Okay.

5 THE COURT: -- but please do not say anything to
6 your fellow jurors.

7 THE JUROR: Okay.

8 THE COURT: Okay. Thank you, thank you very much.

9 (The juror returned to her seat.)

10 THE COURT: Any others?

11 (Another juror approached for a bench conference
12 with the Court on the record.)

13 THE BAILIFF: 83, Your Honor. 83.

14 THE COURT: Good morning. 83; and your name?

15 THE JUROR: Rebecca Fecteau.

16 THE COURT: All right.

17 THE JUROR: I was actually assaulted last year. It
18 wasn't -- I wasn't a minor, but I figured it pertained to
19 this case.

20 THE COURT: All right. Given that fact, could you
21 be a fair and impartial juror in the trial of this case?

22 THE JUROR: I don't think so.

23 THE COURT: You don't think so. All right. I'm
24 going to set you aside for the trial of this case. Please
25 do not say anything to your fellow jurors. Thank you, you

1 may return to your seat.

2 What was her number again?

3 THE CLERK: 83.

4 THE COURT: 83 is excused.

5 Has any member of the jury panel heard or know
6 anything about the case from any source whatsoever? If so,
7 please stand.

8 (No one stood.)

9 THE COURT: Has any member of the jury panel or any
10 member of your immediate family ever been a victim of or
11 investigated for an offense involving child assault, child
12 abuse or child sexual assault? If so, please stand.

13 (Several jurors stood.)

14 THE COURT: All right. If y'all would line up in
15 the center row for me, please.

16 (Several jurors formed a line to speak with the
17 judge privately:)

18 THE BAILIFF: 24, Your Honor.

19 THE COURT: Yes, sir. 24. Your name and number?

20 THE JUROR: Corey Branham, I'm 24.

21 THE COURT: All right. Tell me your situation.

22 THE JUROR: My sister was --

23 THE COURT: Your sister --

24 THE JUROR: Yeah, my sister was molested by her
25 mom's boyfriend.

1 THE COURT: Okay. Can you give me a time frame?
2 How many years ago?

3 THE JUROR: That would have been 25 years ago.

4 THE COURT: Okay. Given that fact, can you be a
5 fair and impartial juror in the trial of this case for both
6 Mr. Boatwright and the State.

7 THE JUROR: Yes, sir.

8 THE COURT: Thank you. I believe you can stay with
9 us.

10 THE BAILIFF: 44, Your Honor.

11 THE COURT: Good morning.

12 THE JUROR: Good morning.

13 THE COURT: And tell me your name, please.

14 THE JUROR: Esmerelda Clark.

15 THE COURT: All right, Ms. Clark. And tell me your
16 situation.

17 THE JUROR: I was -- when I was younger I was
18 assaulted by a family member; and my mother as well when
19 she was little.

20 THE COURT: Given those facts can you be a fair and
21 impartial juror in the trial of this case for both the
22 State and Mr. Boatwright?

23 THE JUROR: No.

24 THE COURT: No?

25 THE JUROR: No, sir.

1 THE COURT: I'm going to set you aside for the
2 trial of this case. You can return to your seat. Do not
3 say anything to your fellow jurors. Thank you.

4 THE JUROR: Yes, sir.

5 THE COURT: Thank you.

6 THE BAILIFF: 16, Your Honor.

7 THE COURT: Good morning.

8 THE JUROR: Good morning. My sister was raped by a
9 high school maintenance man and got pregnant.

10 THE COURT: And can you tell me the time frame.

11 THE JUROR: We're talking 30 years ago. It still
12 cuts me.

13 THE COURT: Given that fact can you still be a fair
14 and impartial juror in the trial of this case for both the
15 State and Mr. Boatwright?

16 THE JUROR: I think that would be very hard for me,
17 to be honest.

18 THE COURT: Hard's not the standard. Okay? I'm
19 not being argumentative. The question becomes if you're
20 selected as a member of this trial jury, the evidence comes
21 from the witnesses testifying under oath in the witness
22 stand and any items entered into evidence, and the law as I
23 tell you the law is. And, of course, you would have to sit
24 aside --

25 THE JUROR: Right.

1 THE COURT: -- set aside whatever -- what did
2 happen to your sister and reach your verdict based on the
3 evidence and testimony here in the courtroom.

4 THE JUROR: Uh-huh.

5 THE COURT: And you know yourself best.

6 THE JUROR: Yeah.

7 THE COURT: Can you do that? And there's no right
8 or wrong, it's whether you can do it or not.

9 THE JUROR: I'm torn. I'm very torn about it, to
10 be honest with you.

11 THE COURT: All right. I'll set you aside for the
12 trial of this case. Please do not say anything to your
13 fellow jurors.

14 THE BAILIFF: 169, Your Honor.

15 THE COURT: Good morning. Number and name?

16 THE JUROR: 169 Laura Osteen.

17 THE COURT: Okay. Ms. Osteen, tell me your
18 situation.

19 THE JUROR: I was a victim of sexual assault.

20 THE COURT: Okay. Can you give me a time frame.

21 THE JUROR: Let's see I was under the age of 14.
22 So -- and I'm 46 now, so...

23 THE COURT: Given that fact can you be a fair and
24 impartial juror in the trial of this case.

25 THE JUROR: I think so, yes. I believe so.

1 THE COURT: Any doubt in your mind about that?

2 THE JUROR: No.

3 THE COURT: Thank you. You can stay with us.

4 Thank you so much.

5 THE BAILIFF: 217, Your Honor.

6 THE COURT: Good morning.

7 THE JUROR: My mother and I have been victimized by
8 my own son.

9 THE COURT: Given those facts, can you be a fair
10 and impartial juror --

11 THE JUROR: I don't think so, no, sir.

12 THE COURT: I'll set you aside for the trial of
13 this case. Thank you.

14 THE BAILIFF: 58, Your Honor.

15 THE COURT: Good morning.

16 THE JUROR: Good morning.

17 THE COURT: Number and name, please?

18 THE JUROR: 58, Bonnie Swingle.

19 THE COURT: All right.

20 THE JUROR: My two sisters were molested when they
21 were young kids and recently my brother-in-law was
22 investigated, but was not charged.

23 THE COURT: Given those facts, can you be a fair
24 and impartial juror in the trial of this case for both the
25 State and Mr. Boatwright?

1 THE JUROR: Yes, sir.

2 THE COURT: You can stay with us. Thank you very
3 much.

4 THE BAILIFF: 186, Your Honor, 186.

5 THE COURT: Good morning.

6 THE JUROR: Good morning.

7 THE COURT: And tell me your number and name.

8 THE JUROR: 186, Sheila Sawyer.

9 THE COURT: All right. And tell me your situation,
10 Ms. Sawyer.

11 THE JUROR: When I was in middle school, my father
12 was investigated for physical child abuse. He was cleared.

13 THE COURT: All right.

14 THE JUROR: The things he did were just on the
15 border of questionable.

16 THE COURT: Given those facts, can you be a fair
17 and impartial juror in the trial of this case --

18 THE JUROR: Yes, sir.

19 THE COURT: -- for both the State and
20 Mr. Boatwright?

21 THE JUROR: Yes, sir.

22 THE COURT: Thank you, I believe you can stay with
23 us.

24 THE JUROR: Okay, thank you.

25 THE BAILIFF: 54, Your Honor.

1 THE COURT: Good morning.

2 THE JUROR: Good morning.

3 THE COURT: And tell me your name.

4 THE JUROR: Victoria Couch.

5 THE COURT: All right. And tell me your situation,
6 Ms. Couch.

7 THE JUROR: I didn't know if -- when I was in high
8 school -- I don't remember, though.

9 THE COURT: Given that fact, can you be a fair and
10 impartial juror in the trial of this case for both
11 Mr. Boatwright and the State?

12 THE JUROR: Uh-huh.

13 THE COURT: Is that -- that's a yes?

14 THE JUROR: Yes.

15 THE COURT: Thank you. I believe you can stay with
16 us.

17 MS. FULLWOOD: Your Honor?

18 THE COURT: Yes?

19 MS. FULLWOOD: I'm sorry, we couldn't hear her
20 reason, I'm sorry.

21 THE COURT: Ma'am, can you step back up here --
22 they -- some of the attorneys had a problem hearing you.
23 Will you repeat for them what you told me.

24 THE JUROR: I was assaulted by my boyfriend when I
25 was 16. I don't recall it.

1 THE COURT: And she said she could be a fair and
2 impartial juror.

3 MS. MAULDIN: Thank you, Your Honor.

4 THE COURT: I'm sorry. I apologize.

5 Thank you.

6 THE BAILIFF: 146, Your Honor.

7 THE COURT: Good morning.

8 THE JUROR: Good morning.

9 THE COURT: And tell me your number and name,
10 please.

11 THE JUROR: 146, Elizabeth McKinney.

12 THE COURT: All right. And tell me your situation.

13 THE JUROR: My brother was convicted of sexual
14 assault of a minor 13 years ago.

15 THE COURT: Given that fact can you be a fair and
16 impartial juror in the trial of this case for both
17 Mr. Boatwright and the State?

18 THE JUROR: Yes.

19 THE COURT: Thank you, I believe you can stay with
20 us.

21 Any others?

22 (The bench conferences concluded.)

23 THE COURT: Is any member of the jury panel related
24 by blood or marriage or close personal friends of anyone
25 employed with the Lexington County Sheriff's Department or

1 the State Law Enforcement Division? If so, please stand.

2 (Several jurors stood.)

3 THE COURT: All right. Number and name again?

4 THE JUROR: 199, Jennifer Spence.

5 THE COURT: All right. And relationship?

6 THE JUROR: Ex-husband.

7 THE COURT: Ex-husband?

8 THE JUROR: Yes.

9 THE COURT: Given that fact can you be a fair and
10 impartial juror in the trial of this case for both the
11 State and the defense?

12 THE JUROR: Yes, sir.

13 THE COURT: Thank you.

14 Ms. Ridgell?

15 THE JUROR: Yes. My son-in-law is a retired deputy
16 from the sheriff's department in Lexington County.

17 THE COURT: Given that fact can you be a fair and
18 impartial juror in the trial of this case for both the
19 State and the defense?

20 THE JUROR: Yes, sir.

21 THE COURT: Thank you. You may be seated.

22 Yes, sir?

23 THE JUROR: 24, Corey Branham, and my aunt's
24 husband.

25 THE COURT: Given that fact, can you with be a fair

1 and impartial juror in the trial of this case for both the
2 State and the defense?

3 THE JUROR: Yes, sir.

4 THE COURT: All right. Thank you, you may be
5 seated.

6 Let me step down before I get to you young lady. I
7 can't hear from up there because of the fan.

8 Tell me your number and name again.

9 THE JUROR: 54, Victoria Couch.

10 THE COURT: Relationship?

11 THE JUROR: My spouse, my husband is on military
12 leave from Lexington County Sheriff's Department as a
13 narcotics detective.

14 THE COURT: Given that fact can you be a fair and
15 impartial juror in the trial of this case for both the
16 State and the defense?

17 THE JUROR: Yes, sir.

18 THE COURT: Thank you, you may be seated.

19 Yes, ma'am?

20 THE JUROR: 155 Mallory Miller. I have a close
21 personal friend that's a sheriff's officer, Donnell West.

22 THE COURT: Given that fact can you be a fair and
23 impartial juror in the trial of this case for both the
24 State and the defense?

25 THE JUROR: Yes, sir.

1 THE COURT: Thank you, you may be seated.

2 Yes, ma'am?

3 THE JUROR: 83, Rebecca Fecteau. My boyfriend
4 worked for the sheriff's department.

5 THE COURT: Given that fact can you be a fair and
6 impartial juror in the trial of this case for both the
7 State and the defense?

8 THE JUROR: Yes, sir.

9 THE COURT: Thank you.

10 Yes, ma'am?

11 THE JUROR: Jean Burke-McIntyre. My nephew and is
12 employed as a deputy.

13 THE COURT: Given that fact can you be a fair and
14 impartial juror in the trial of this case for both the
15 State --

16 You cant hear Ms. Fullwood?

17 MS. FULLWOOD: No, sir.

18 THE CLERK: She's number 32, Ms. Burke.

19 THE COURT: Given that fact, can you be a fair and
20 impartial juror in the trial of this case for both the
21 State and the defense?

22 THE JUROR: Yes, sir.

23 THE COURT: Thank you.

24 Yes, ma'am?

25 THE JUROR: 137. My husband is Randy Martin and

1 worked for Lexington County before and now he's with Barton
2 Security.

3 THE COURT: Given that fact can you be a fair and
4 impartial juror in the trial of this case for both the
5 State and the defense?

6 THE JUROR: Yes, sir.

7 THE COURT: Thank you, you may be seated.

8 Yes, ma'am?

9 THE JUROR: Number 52. And my mom is employed at
10 the police academy.

11 THE COURT: Given that fact can you be a fair and
12 impartial juror in the trial of this case for both the
13 State and the defense?

14 THE JUROR: Yes, sir.

15 THE COURT: Thank you.

16 Yes, ma'am?

17 THE JUROR: 132, Anna Livatino. My brother is
18 employed with the Richland County Sheriff's Department.

19 THE COURT: And given that fact can you be a fair
20 and impartial juror in the trial of this case for both the
21 State and the defense.

22 THE JUROR: I can.

23 THE COURT: Thank you. You may be seated.

24 Has any member of the jury panel ever been employed
25 by a law enforcement agency? If so, please stand.

1 (A juror stood.)

2 THE COURT: All right. Yes, sir?

3 THE JUROR: 180, Carlos Rosado. I work for the
4 Department of Corrections.

5 THE COURT: Given that fact can you be a fair and
6 impartial juror in the trial of this case for both the
7 State and the defense?

8 THE JUROR: Yes, sir.

9 THE COURT: Thank you.

10 Does any member of the jury panel have any formal
11 legal training? If so, please stand.

12 (A juror stood.)

13 THE COURT: Let's see this is Chyles and Hallman,
14 Mr. Turner?

15 THE JUROR: That's correct.

16 THE COURT: All right. And I take it you and most
17 of the attorneys at your firm have former legal training.

18 THE JUROR: I believe that's the case, Your Honor.

19 THE COURT: And I want to say very formal legal
20 training, by all I hear, Mr. Turner.

21 Given that fact can you be a fair and impartial
22 juror in the trial of this case for both the State and the
23 defense.

24 THE JUROR: I can.

25 THE COURT: Thank you, thank you, Mr. Turner, you

1 may be seated.

2 Madam Clerk, isn't there a question on the
3 questionnaire about whether or not an individual had ever
4 been a witness in a trial? On the questionnaire?

5 THE CLERK: I believe it is, Your Honor.

6 THE COURT: Do you have a questionnaire up here?
7 Anybody's, I just want to see it, please.

8 THE CLERK: It's about serving on a civil or
9 criminal jury. Basically have you ever served as a civil
10 or criminal juror. Not a witness, but ever served.

11 THE COURT: All right. I would decline to ask that
12 question.

13 Has any member of the jury panel ever served as a
14 member of the grand jury? If so, please stand.

15 (No one stood.)

16 THE COURT: Has any member of the jury panel ever
17 volunteered for, been employed by any center or program
18 whose primary purpose is treating victims of crimes,
19 including victims of sexual assault? If so, please stand.

20 (A juror stood.)

21 THE COURT: Number and name?

22 THE JUROR: 158.

23 THE COURT: And what organization?

24 THE JUROR: When I lived in another state, I did
25 volunteer work for a rape crisis center.

1 THE COURT: All right. And you were employed?

2 THE JUROR: No, volunteer.

3 THE COURT: Volunteer. Given that fact can you be
4 a fair and impartial juror in the trial of this case for
5 both the State and the defense?

6 THE JUROR: Yes.

7 THE COURT: Thank you, you may be seated.

8 Yes, sir, your number and name?

9 THE JUROR: 155, Mallory Miller. I worked at the
10 South Carolina Department of Mental Health and at times we
11 people come there for treatment.

12 THE COURT: And given that fact can you be a fair
13 and impartial juror in the trial of this case for both the
14 State and the defense?

15 THE JUROR: Yes, sir.

16 THE COURT: Thank you, you may be seated.

17 Any others? Yes, number and name.

18 THE JUROR: 49, John Conway. As a program
19 counselor and also a family private practice I do have
20 clients who have history of child abuse from the past.

21 THE COURT: Given those facts can you be a fair and
22 impartial juror in the trial of this case for both the
23 State and the defense?

24 THE JUROR: Yes, sir.

25 THE COURT: Thank you.

1 Number and name.

2 THE JUROR: Number 72, Lori Dubose. Formerly when
3 I worked at the family YMCA, we had a lot of different
4 community organizations that would address different issues
5 in the community and one of the programs does address
6 children and abuse as an employee I would go to trainings
7 at times to have my eyes open, ears open.

8 THE COURT: Given those facts can you be a fair and
9 impartial juror in the trial of this case for both
10 Mr. Boatwright and the State?

11 THE JUROR: Yes, sir.

12 THE COURT: Thank you.

13 Others?

14 (No one stood.)

15 THE COURT: Thank you. I'm going to call a rather
16 lengthy list of names of potential witnesses in the trial
17 of this case. I'll probably call them in groups of five.
18 I would ask if any of these individuals are present, when
19 your names are called, if you'd please stand and face the
20 jury panel.

21 I would advise the jury panel that witnesses,
22 potential witnesses, do not have to be present during this
23 proceeding; therefore, you may hear names called and no one
24 stands.

25 The question, of course, is, is any member of the

1 jury panel related by blood or marriage, close personal
2 friends, have any social, business, professional
3 relationship with any of these individuals whose names I
4 call and/or who stand before you. If so, please stand.

5 The first five names: Minor . This is Miss
6 Minor to my front right.

7 Thank you, thank you, Miss Minor .

8 Crystal Boatwright, this is Ms. Boatwright to my
9 front right.

10 Thank you, Ms. Boatwright.

11 Shepherd Cary; Detective Bramlett J. Burton,
12 Kentucky State Police; Raymond Barrett, Lexington County
13 Sheriff's Department.

14 The next five names: Brittany Nicholson -- yes,
15 ma'am, number and name please?

16 THE JUROR: 54 Victoria Couch. You were asking if
17 we knew them or associated with them or --

18 THE COURT: I asked if any member of the jury panel
19 is related by blood or marriage, close personal friends,
20 have any social, business, professional relationship.
21 However, let's say if you know them. Tell me who it is you
22 know.

23 THE JUROR: Raymond Barrett.

24 THE COURT: All right. Given the fact that you
25 know Deputy Barrett, can you be a fair and impartial juror

1 in the trial of this case for both the State and the
2 defense?

3 THE JUROR: Yes.

4 THE COURT: Thank you, you may be seated.

5 Detective Tricia Stoner, Lexington County Sheriff's
6 Department.

7 THE CLERK: Number 54, again.

8 THE COURT: Why don't you take a copy of my list
9 and just -- (laughter.) -- you check them off for me.

10 All right. Given the fact that you know Detective
11 Stoner, can you be a -- and how do you know Detective
12 Stoner?

13 THE JUROR: Her husband -- well, she and her
14 husband works with my spouse.

15 THE COURT: Given those facts, can you be a fair
16 and impartial juror in the trial of this case for both the
17 State and the defense?

18 THE JUROR: Yes, sir.

19 THE COURT: Thank you.

20 Detective Traci Barr, this is Detective Barr to my
21 front right; Lexington County Sheriff's Department.

22 Thank you.

23 Heather Clary, Lexington County Sheriff's
24 Department; Jennifer Aycock, SLED.

25 The next five names: Lieutenant Cain Mayrant,

1 Lexington County Detention Center; Beth Holliman,
2 Lexington County Sheriff's Department; Candi Kyzer,
3 Lexington County Sheriff's Department; Detective Mike
4 Phipps, Lexington County Sheriff's Department; Heather
5 Smith, Assessment and Resource Center, Columbia, South
6 Carolina.

7 The next five names: Marlana Clary, Palmetto
8 Health Richland; Agent Gaile Heath, with SLED; Charles
9 Baughman; Katie Baughman; Amanda Crider.

10 The next six names: Courtney McDaniel; Debra
11 Harwell; Terry Harwell; Mark McDaniel; Donna Milikin; Brad
12 Kirkland.

13 The next three names -- one of them is listed,
14 ladies and gentlemen, as the custodian of the records with
15 the South Carolina Highway Department. It could be
16 different individuals, but if you happen to know someone
17 that works in that capacity as the custodian of the records
18 with the South Carolina Highway Department.

19 Mickey Dawson; Al Johnson.

20 Ladies and gentlemen, does any member of the jury
21 panel have any religious, moral, or personal beliefs that
22 would prevent you from passing judgment -- let me rephrase
23 that. Does any member of the jury panel have any
24 religious, moral, or personal beliefs which would prevent
25 you from being able to reach a verdict of guilty or not

1 guilty as to another individual? If so, please stand.

2 (No one stood.)

3 THE COURT: Does any member of the jury panel have
4 such strong feelings for or against the allegations or
5 charges in this case, such that would prevent you from
6 giving the State and Mr. Boatwright a fair and impartial
7 trial? If so, please stand.

8 (No one stood.)

9 THE COURT: Any additional voir dire from the
10 defense?

11 MS. FULLWOOD: None, Your Honor.

12 THE COURT: The State?

13 MS. MAYES: None from the State, Your Honor.

14 THE COURT: And finally, finally, ladies and
15 gentlemen, you've heard read published the indictments.
16 You know those allegations that are charged. I've asked
17 you a series of questions, a somewhat lengthy list of names
18 of the potential witnesses. And you know our purpose in
19 this procedure is to select a jury that will be fair and
20 impartial in the trial of this case for both Mr. Boatwright
21 and the State. You know yourselves best. If there's
22 anything that you think may prevent you from being a fair
23 and impartial juror in the trial of this case, please
24 stand.

25 If it concerns you, it concerns me. As you see

1 there are many of you out there and you have many
2 colleagues. I want to address it now, not when you're
3 sitting over here in the jury box. Any member of the jury
4 panel have any concerns that you cannot be a fair and
5 impartial juror in the trial of this case, please stand.

6 Thank you. Thank you very much. No one stands.
7 Strikes solicitor?

8 MS. MAYES: Five and ten, Your Honor.

9 THE COURT: Five for the State, ten for the
10 defense? Is that correct, Ms. Fullwood.

11 MS. FULLWOOD: That's right, Your Honor.

12 THE COURT: Thank you. Thank you very much.
13 Madam Clerk, would you give us a jury panel,
14 please.

15 I hope that computer is working better than the air
16 conditioner.

17 (The clerk was preparing the random strike list.)

18 THE COURT: In the -- a couple of decades ago, I'll
19 do my semi standup comedy routine.

20 A couple of decades ago, we drew the jury panel
21 from a King Edward Cigar Box. I'd have to have a child, I
22 believe it was under the age of 9, or an unsighted person.
23 Of course, I'd take my children with me over the years and
24 they would draw juries. I tell all my children this. Some
25 of them like it, some of them don't. Both of my daughters,

1 both of my girls are lawyers. They have JD degrees.

2 My son is a Citadel graduate as is Mr. Lyle. I
3 tell people I like law clerks that are Citadel graduates.
4 They're not real bright, but they're very loyal and
5 Mr. Lyle, of course, is both bright and loyal.

6 But as I say, my son is a Citadel graduate and he's
7 a John Deer Dealer, so I tell everybody all three of my
8 children have JD degrees and one out of three of them
9 turned out to be something.

10 Be that as it may. Thank you.

11 Madam Clerk, you got us a list?

12 THE CLERK: Yes, sir, Your Honor.

13 THE COURT: Give us a panel.

14 **JURY SELECTION**

15 THE CLERK: Yes, sir.

16 As I call your name, please come forward, stand
17 where Mr. Dan is and wait until I tell you to either have a
18 seat in the jury box or return to your seat.

19 Number 23, Catherine Bostick (white female).

20 What say for the State?

21 MS. MAYES: Your Honor, may we approach?

22 THE COURT: Yes, ma'am.

23 (There was a bench conference out of the hearing of
24 the jury and the Court Reporter.)

25 THE COURT: Ms. Bostick, you may return to your

1 seat.

2 THE JUROR: All right.

3 THE COURT: Thank you. Thank you very much.

4 THE CLERK: Proceed, Your Honor?

5 THE COURT: Yes, ma'am.

6 THE CLERK: Number 93, Michelle Godfrey (white
7 female).

8 What say for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say for the defense?

11 MS. FULLWOOD: Please swear the juror.

12 THE CLERK: Have a seat in the jury box, ma'am.

13 138, Deria Mason (black female).

14 What say for the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What say for the defense?

17 MS. FULLWOOD: Please swear the juror.

18 THE CLERK: Have a seat in the jury box, ma'am.

19 71, Dana Drinkard (white female).

20 What say for the State?

21 MS. MAYES: Please present the juror.

22 THE CLERK: What say for the defense?

23 MS. FULLWOOD: Please swear the juror.

24 THE CLERK: Have a seat in the jury box, ma'am.

25 69, Jeffrey Drafts (white male).

1 What say for the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What say for the defense?

4 MS. FULLWOOD: Please swear the juror.

5 THE CLERK: Have a seat in the jury box, sir.

6 Number 220, Mary Williams (white female).

7 What say for the State?

8 MS. MAYES: Please present the juror.

9 THE CLERK: What say for the defense?

10 MS. FULLWOOD: Please swear the juror.

11 THE CLERK: Have a seat in the jury box, ma'am.

12 223, Patti Womack (white female).

13 What say for the State?

14 MS. MAYES: Please present the juror.

15 THE CLERK: What say for the defense?

16 MS. FULLWOOD: Please swear the juror.

17 THE CLERK: Have a seat in the jury box, ma'am.

18 110, Roger Horton (white male).

19 What say for the State?

20 MS. MAYES: Beg the Court's indulgence.

21 THE COURT: Yes, ma'am.

22 (There was a pause in the proceedings.)

23 MS. MAYES: Please present the juror.

24 THE CLERK: What say for the defense?

25 MS. FULLWOOD: Please swear the juror.

1 THE CLERK: Have a seat in the jury box, sir.
2 24, Corey Branham (white male).
3 What say for the State?
4 MS. MAYES: Please present the juror.
5 THE CLERK: What say for the defense?
6 MS. FULLWOOD: Please excuse the juror for this
7 trial.
8 THE CLERK: Return to your seat, please, sir.
9 36, William Byars (white male).
10 What say for the State?
11 MS. MAYES: Please present the juror.
12 THE CLERK: What say for the defense?
13 MS. FULLWOOD: Please swear the juror.
14 THE CLERK: Have a seat in the jury box, sir.
15 118, Eric Johnson (white male).
16 What say for the State?
17 MS. MAYES: Please present the juror.
18 THE CLERK: What say for the defense?
19 MS. FULLWOOD: Please swear the juror.
20 THE CLERK: Have a seat in the jury box, sir.
21 199, Jennifer Spence (white female).
22 What say for the State?
23 MS. MAYES: Please present the juror.
24 THE CLERK: What say for the defense?
25 MS. FULLWOOD: Please excuse the juror for this

1 trial.

2 THE CLERK: Return to your seat, please, ma'am.

3 42, Stephen Churico (white male).

4 What say for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say for the defense?

7 MS. FULLWOOD: Please swear the juror.

8 THE CLERK: Have a seat in the jury box, sir.

9 206, Barbara Thompson (white female).

10 What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MS. FULLWOOD: Please excuse the juror for this

14 trial.

15 THE CLERK: Return to your seat, please, ma'am.

16 132, Anna Livatino (white female).

17 What say for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say for the defense?

20 MS. FULLWOOD: Please excuse the juror for this

21 trial.

22 THE CLERK: Return to your seat, please, ma'am.

23 101, Zachary Harris (white male).

24 What say for the State?

25 MS. MAYES: Please excuse the juror from the trial

1 of this case.

2 THE CLERK: Return to your seat, please, sir.

3 63, Dustin Derrick (white male).

4 What say for the State?

5 MS. MAYES: Beg the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 (There was a pause in the proceedings.)

8 MS. MAYES: Please present the juror.

9 THE CLERK: What say for the defense?

10 MS. FULLWOOD: Please swear the juror.

11 THE CLERK: Have a seat in the jury box, sir.

12 173, Camilla Powell (black female).

13 What say for the State?

14 MS. MAYES: Please present the juror.

15 THE CLERK: What say for the defense?

16 MS. FULLWOOD: Please swear the juror.

17 THE CLERK: Have a seat in the jury box, ma'am.

18 Alternates, Your Honor?

19 THE COURT: Two alternates, strikes one for the

20 State, two for the defense.

21 THE CLERK: Yes, sir.

22 53, Brian Coryell (white male).

23 What say for the State?

24 MS. MAYES: Please present the juror.

25 THE CLERK: What say for the defense?

1 MS. FULLWOOD: Please swear the juror.

2 THE CLERK: Have a seat in the jury box, sir.

3 That's alternate one, Your Honor.

4 210, Tyler Turner (white male).

5 What say for the State?

6 MS. MAYES: Please excuse the juror from the trial
7 of this case.

8 THE CLERK: Return to your seat, please, sir.

9 168, Michael Olmstead (white male).

10 What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MS. FULLWOOD: Please swear the juror.

14 THE CLERK: Have a seat in the jury box, sir.

15 That's alternate number two, Your Honor.

16 THE COURT: Thank you.

17 Any motions regarding the jury selection process
18 from the State?

19 MS. MAYES: None from the State, Your Honor.

20 THE COURT: From the defense?

21 MS. FULLWOOD: None, Your Honor.

22 THE COURT: Thank you.

23 Can someone get me solicitor Usry, please.

24 MS. MAYES: Yes, sir, Your Honor.

25 (There was a pause in the proceedings.)

1 THE COURT: Solicitor, Ms. Fullwood, would y'all
2 step up here a minute, please.

3 (There was a bench conference out of the hearing of
4 the jury and the Court Reporter.)

5 THE COURT: All right. Ladies and gentlemen of the
6 jury panel not fortunate enough to be selected for the
7 trial of this case, I'm checking with another judge that's
8 here visiting from Anderson this week, Judge Maddox to see
9 when he wants to proceed with the selection process. So
10 rather than give you a 15 minute break then have you come
11 back and then he send you away until after lunch, I'm just
12 going to have you sit in place for a few minutes. They've
13 gone downstairs to check with him -- check with him now.

14 As to the jury panel selected for the trial of this
15 case, this case is no different from many other cases,
16 there are a number of pretrial matters that I must hear
17 outside of the presence of the jury before we begin the
18 trial of this case. As I say, that's no different from
19 many, many trials.

20 Rather than bring you back this afternoon, we're
21 going to start the actual trial of the case at 9:30 in the
22 morning, so y'all will have the afternoon off, or you may
23 go back to your places of employment or what have you. But
24 rather than have you come back later on this afternoon and
25 us not be finished and you be held captive back and forth,

1 we're going to begin at 9:30 in the morning.

2 I'm going to give you certain instructions that
3 you must follow throughout your service as jurors in this
4 trial. You may not discuss this case with others. That
5 includes your fellow jurors, family, friends, or anyone
6 else. You may not read, listen to, watch any news reports
7 about the case, should there be any.

8 You may not use your computer -- of course, you
9 won't have them in the courthouse -- your cellular phone or
10 other electronic device with communication capabilities
11 while in attendance at trial or during deliberation. These
12 devices may be used during lunch breaks but may not be used
13 to obtain or disclose information which is prohibited.

14 Information which is prohibited includes, but is
15 not limited to the following: Information about a party, a
16 witness, an attorney or a court officer; news accounts
17 about the case should there be any past or present;
18 information collected through juror research on any topic
19 raised or any testimony offered by any witness or
20 information collected through juror research on any other
21 topic that the juror might think might be helpful in
22 deciding the case.

23 You decide the case based on the evidence and the
24 testimony presented before you and the witnesses testifying
25 under oath, sworn witnesses under oath from the witness

1 stand and any physical items of evidence that may be
2 introduced during the trial of this case; and the law as I
3 tell you the law is; uninfluenced by anything you may have
4 heard, read, seen outside of this courtroom.

5 So with that being said, I'm going to release you
6 for the remainder of the day and ask you to please report
7 back promptly to your new temporary home, your jury room,
8 at 9:30 in the morning. The bailiff, Mr. Dan, will show
9 you where to report back to. I hope you all have a -- any
10 questions?

11 (No one stood.)

12 THE COURT: I hope you all have a pleasant
13 afternoon, pleasant evening, see you at 9:30 in the
14 morning. Thank you very much.

15 (The jury left the courtroom at 12:26 p.m.)

16 THE COURT: All right. As far as this case we'll
17 be in recess until 2 o'clock.

18 MS. MAYES: Yes, sir, Your Honor.

19 THE COURT: Recess until 2 o'clock. Thank you,
20 thank you very much.

21 (A recess for lunch was observed.)

22 **PRETRIAL MOTIONS**

23 THE COURT: All right. What motions do y'all have?

24 MS. MAYES: Your Honor, in this case, the State had
25 filed three motions. The first was in response to the

1 supplemental discovery motion made by Ms. Fullwood, I
2 believe it was the week before last and she was requesting
3 mental health records of the victim. We then filed a
4 motion for protection of the confidential or privileged
5 mental health records with the exception of what would be
6 discoverable under Rule 5, which would be any type of
7 diagnosis or diagnostic summary. We did provide the
8 diagnosis and diagnostic summary once we received that last
9 Wednesday and then we received a sealed package of items
10 this morning that were sent to us by the mental health
11 provider in the State of Kentucky; and they were provided
12 for in-camera review by the Court to determine whether they
13 my be discoverable as well.

14 THE COURT: And that's -- this large packet?

15 MS. MAYES: Yes, sir, Your Honor.

16 THE COURT: And those documents contained in the
17 large packet, you say are not discoverable?

18 MS. MAYES: We have not reviewed them because they
19 were just provided by the Kentucky mental health provider
20 this morning.

21 THE COURT: And you had already provided these in
22 the beige folder?

23 MS. MAYES: Yes, sir, Your Honor. Those -- when we
24 found out that there were records, we requested that they
25 provide anything reflecting a diagnosis or a diagnostic

1 summary and they provided those records and then we
2 provided them to the defense in turn and once --

3 THE COURT: You already had these?

4 MS. MAYES: Yes -- we received them --

5 THE COURT: And they were provided to defense?

6 MS. MAYES: Yes, sir, Your Honor. And following
7 our teleconference last week, an order was signed to allow
8 Ms. Fullwood to request the full set of records and those
9 are the records that were delivered this morning in the
10 sealed package.

11 THE COURT: All right.

12 --All right. Ms. Fullwood?

13 MS. FULLWOOD: Thank you. We've asked the Court to
14 examine the sealed package and rule that we are entitled to
15 any of those records where the witness makes statements as
16 to the alleged incidents she is going to be testifying to
17 during the course of this trial. We've also asked Your
18 Honor to divulge to us anything in the packet that might
19 arguably go to impeachment evidence that would be
20 discoverable under Brady.

21 We did have a status conference via telephone last
22 Thursday I believe it was. Wednesday afternoon, the
23 prosecution gave us the records in the beige folder. At
24 that time I e-mailed your law clerk and let him know that
25 we were going to ask for a continuance in this matter and

1 we discussed that during the telephone conference. The
2 reasons we wanted a continuance was, first of all, we
3 believed there were additional records that -- that should
4 be divulged to us. Second of all, this was the first time
5 we had learned that there were actual mental health records
6 of treatment of prosecuting witness and we wanted time to
7 review those records and to be able to hire an expert to
8 look over them and see if we needed to develop what we
9 learned of those records as something we could use in
10 defense.

11 Your Honor denied the motion for a continuance and
12 also ruled, of course, that we could get these Kentucky
13 records that you have under seal at this time; Your Honor
14 would -- that you would sign an order authorized
15 expenditure of funds to pay the record -- pay for the
16 record; and I gave Your Honor's clerk a copy of that order
17 for signature today. Judge Goodstein did not want to sign
18 funding orders last week. And you also authorized us to
19 get money approved to pay for a defense mental health
20 witness.

21 I will tell Your Honor, Ms. Hahn -- Ms. Mauldin,
22 has been handling trying to get the mental health witness.
23 She has talked to several people, most of whom practice and
24 they were already full and they just could not make time to
25 review the records and possibly appear at a trial this

1 week. The only -- the only ones we were referred to that
2 we didn't call were the ones that were with ARC which is an
3 Advocacy Child Center and we did not think that they would
4 be appropriate defense experts. In light of the fact that
5 while we've made a diligent search for a mental health
6 expert, but weren't able to obtain one on such short
7 notice, we again would renew that motion for a continuance.

8 THE COURT: All right. Well, I would reaffirm my
9 ruling based on the -- although the documents may be of
10 recent origin within the file of the solicitor's office and
11 turned over in the beige folder and there are documents
12 that I have not yet reviewed in the sealed envelope, which
13 I will certainly do so, but I will renew my previous ruling
14 as to the motion for a continuance.

15 So basically, my review is limited to the witnesses
16 and I assume you're talking about Ms. Minor 's statements.

17 MS. FULLWOOD: Miss Minor .

18 THE COURT: Excuse me?

19 MS. FULLWOOD: Miss Minor .

20 THE COURT: Miss Minor , I'm sorry. Miss
21 Minor 's statement in reference to the incident and any
22 evidence that would be discoverable under Brady?

23 MS. FULLWOOD: That's right, Your Honor.

24 THE COURT: All right. Do you think, Ms. Fullwood,
25 there is the same or different standard as far as mental

1 health treatment records? Do you think that's the same --

2 MS. FULLWOOD: I'm not --

3 THE COURT: As far as discoverability?

4 MS. FULLWOOD: Not in this posture when we have
5 them in hand and they were brought to this state by the
6 mother of the witness, who signed a release to obtain them.

7 THE COURT: All right. Well I'll -- do you know if
8 the -- if their state -- let's say similar to South
9 Carolina, if these are similar to our DSS records? Is it a
10 State agency?

11 MS. MAYES: Your Honor, they would not be similar
12 the DSS records. The child, after she had disclosed
13 long-term sexual abuse was referred for therapy and
14 treatment and that is a -- an actual mental health
15 provider. And my understanding according to diagnostic
16 summary is that she has a diagnosis of post-traumatic
17 stress disorder and an adjustment disorder. We're not
18 offering evidence of that at trial, but when the defense
19 filed their motion requesting mental health records -- and
20 I believe that motion was filed April 14th -- when they
21 filed that motion, we did look into it. We did find out
22 she had received that treatment in Kentucky.

23 They would be mental health providers there. I
24 believe it would be a licensed therapist. And those are
25 now the sealed records that we had the mother of the victim

1 sign for and bring down to us pursuant to the Court's
2 ruling on Thursday.

3 THE COURT: All right. Well, I'll review them, so
4 I'll take it under advisement and I'll review them this
5 evening.

6 All right. Y'all have other motions?

7 MS. MAYES: Yes, sir, Your Honor. The State filed
8 a standard motion for compliance with the rape shield
9 statute. We have not received any response from the
10 defense that they may intend to go into any other type of
11 sexual activity on the part of the victim. We're not aware
12 of anything, but it's just a standard motion we always
13 file. In --

14 THE COURT: You -- go ahead, Solicitor.

15 MS. MAYES: In addition, Your Honor, the State did
16 file a motion for admission of prior bad acts and that was
17 also filed on April 15th. And Your Honor, this deals with
18 information that was disclosed throughout this
19 investigation. When the child received her original
20 forensic interview back in 2013, she reported that the
21 family had lived in multiple jurisdictions.

22 She met the defendant when she was 10 years old.
23 Her mother started dating him in 2010 in the State of
24 Kentucky. That is where she first experienced
25 inappropriate touching and sexual assault of a repeated

1 nature by the defendant, Mr. Boatwright; at least that is
2 the testimony that would be offered by Miss Minor .

3 When she was 11, they moved to the State of Texas
4 and lived together as a family. At this point, her mother
5 actually married Mr. Boatwright and he was her stepfather.
6 The abuse escalated into actual intercourse in the State of
7 Texas and then after residing several months in the State
8 of Texas, they moved to Lexington County in February of
9 2012. And they stayed here in Lexington County between
10 February 2012 and July 2012, where the abuse continued.
11 Your Honor, the State's position is that it's always been
12 ongoing elicit conduct of a similar nature, it's always
13 involved the same victim. The indictment before the Court
14 for possession of sexual exploitation of material or sexual
15 exploitation of a minor, one of those indictments actually
16 deals with Minor .

17 There are photographs of Minor of an explicit nature
18 that were recovered from a computer that we allege belonged
19 to the defendant, Mr. Boatwright. And, Your Honor, those
20 photographs were taken in Kentucky. They were taken in
21 Texas. And the testimony of the victim will be that he
22 continued to possess the laptop and those images here in
23 Lexington County. He also continued to try and have her
24 participate in taking photographs, but ultimately she
25 resisted here in Lexington County.

1 So, Your Honor, this would be a motion pursuant to
2 the case law State versus McLellan, State versus Curtain,
3 State versus Weaverling and numerous other cases I will
4 pass up at this time that go with the admission of prior
5 bad act testimony when it concerns ongoing elicit sexual
6 activity with the same victim as we have here.

7 THE COURT: Thank you.

8 All right. Ms. Fullwood?

9 MS. FULLWOOD: Your Honor, first of all, we don't
10 intend to ask questions or put up any evidence that would
11 trigger the rape shield law. I don't know of any
12 information from discovery or otherwise that that would be
13 relevant in this trial. Concerning bad acts, in as much as
14 this is conduct that he hasn't been convicted of, I think
15 the State first has to make a showing by clear and
16 convincing evidence that the acts actually occurred. And
17 then Your Honor is required to conduct a balancing test to
18 see whether the probative value is outweighed by the
19 prejudicial effect.

20 At this point, the State hasn't made that showing
21 and until it does, I would submit that they can't let it
22 in.

23 THE COURT: All right. Well, then, I think.
24 Solicitor, you may call your witness or witnesses in that
25 regard.

Minor - Direct Examination In Camera by Ms. Mayes

1 MS. MAYES: Yes, sir, Your Honor.

2 The State calls Minor .

3 THE COURT: If you would come around, please, Miss

4 Minor and be sworn.

5 Minor ,

6 having been duly sworn, testified as follows:

7 THE CLERK: Have a seat, please, ma'am. Once
8 you're seated, state your full name, spelling your last on
9 the record, please.

10 THE WITNESS: Minor , Minor .

11 DIRECT EXAMINATION IN CAMERA

12 BY MS. MAYES:

13 Q And Minor, how old are you today?

14 A 15.

15 Q What state are you living in right now, Minor?

16 A Kentucky.

17 Q I'm going to ask you, first of all, how it is that
18 you know the defendant in this case, Richard or Rick
19 Boatwright?

20 A He was married to my mother.

21 Q Okay. What State were you living in when you first
22 met him?

23 A Kentucky.

24 Q And about how old were you when you first met him?

25 A Ten.

Minor - Direct Examination In Camera by Ms. Mayes

1 Q Now, when he and your mom first met, how often
2 would he be over at your home?

3 A Most of the time.

4 Q Okay. Did that include staying over at night?

5 A Yes.

6 Q And while you were living in Kentucky, can you tell
7 us whether or not anything happened that made you feel
8 uncomfortable?

9 A It did.

10 Q Okay. And what was that?

11 A He would touch me.

12 Q Okay.

13 A Uh-huh.

14 Q And can you tell us what part or parts of body --

15 A Private parts.

16 Q Okay. Can you tell us if that included outside the
17 clothes? Inside the clothes?

18 A Inside.

19 Q And when that started happening, did you tell your
20 mom about it?

21 A No.

22 Q Can you tell us why?

23 A I was scared of what he would do.

24 Q All right. Did that happen in Kentucky one time or
25 more than one time?

Minor - Direct Examination In Camera by Ms. Mayes

- 1 A More.
- 2 Q After Kentucky where did you live next?
- 3 A Texas.
- 4 Q Okay. And who all lived in the home in Texas?
- 5 A Me, my mother, him, and my brother.
- 6 Q And is your brother older than you or younger than
- 7 you?
- 8 A Younger.
- 9 Q And what is his name?
- 10 A Jared.
- 11 Q About how much younger is he than you?
- 12 A 16 months.
- 13 Q So you're the oldest child?
- 14 A Yes.
- 15 Q How old were you approximately when y'all were
- 16 living in Texas?
- 17 A When we first moved there I was 10 and then I
- 18 turned 11.
- 19 Q You turned 11 while you were in Texas?
- 20 A Yes.
- 21 Q And you said before that you lived together as a
- 22 family, but let me clarify that. Who actually lived in the
- 23 home with you?
- 24 A Me, my brother, him, and my mother.
- 25 Q Okay. At some point in time, did he and your

Minor - Direct Examination In Camera by Ms. Mayes

1 mother get married?

2 A Yes.

3 Q Where were y'all living when they got married?

4 A Texas.

5 Q So at this point, he is your stepfather?

6 A Yes.

7 Q While living in Texas, can you tell us whether or
8 not anything happened that made you feel uncomfortable?

9 A It did.

10 Q And what was that?

11 A The same thing as Kentucky, then it escalated into
12 full intercourse.

13 Q Okay. When you say intercourse, I'm just going to
14 have to ask you this.

15 A Uh-huh.

16 Q What part of his body touched your body?

17 A Private areas to private areas.

18 Q Okay. And when you say his private area, can you
19 tell us whether or not it ever went in your private area?

20 A It did.

21 Q Did that happen one time or more than one time?

22 A More than once.

23 Q What are some times that he would find to -- to
24 accomplish this?

25 A Mostly in the middle of the night when everyone in

Minor - Direct Examination In Camera by Ms. Mayes

1 the house was asleep.

2 Q Did you have your own room there in Texas?

3 A Yes.

4 Q And did your mom know about it when y'all were in
5 Texas?

6 A No.

7 Q After Texas, where did you live next?

8 A South Carolina.

9 Q And specifically in South Carolina, what County?

10 A Lexington.

11 Q All right. When you lived here the Lexington, how
12 old were you?

13 A 11.

14 Q Okay. Did you have your own room here in
15 Lexington?

16 A Yes.

17 Q Who all lived in the house?

18 A Me and my brother and my mother.

19 Q Okay. Was your room -- where was your room in
20 relation to the room that he and your mother had?

21 A It was -- my room was at one end of the house,
22 theirs was at the other.

23 Q All right. What, if any are some times that he
24 would find to do something in South Carolina?

25 A Again, when everyone else would be asleep or no one

Minor - Direct Examination In Camera by Ms. Mayes

1 was in the home.

2 Q And did that happen one time or more than one time
3 in South Carolina?

4 A More than one time.

5 Q What you described before, putting his private part
6 in your private part, did that happen in South Carolina?

7 A Yes.

8 Q I believe you used the word intercourse?

9 A Yes.

10 Q Did that happen one time or more than one time?

11 A More than one time.

12 Q Did he ever put his private part in your mouth?

13 A Yes.

14 Q Where did that happen?

15 A South Carolina and Texas.

16 Q Did that happen one time or more than one time?

17 A More than one time.

18 Q Now, I want to take you specifically to the day of
19 July 20th, 2012. What happened on that day?

20 A My mother was arrested.

21 Q All right. And when she was arrested, where did --
22 where was she taken?

23 A To jail here.

24 Q Okay. Here in Lexington County?

25 A Yes.

Minor - Direct Examination In Camera by Ms. Mayes

1 Q And when your mom was taken to jail, who was left
2 to care for you and your brother?

3 A He was.

4 Q And when you say he, you're referring to who?

5 A Rick.

6 Q The defendant, Rick Boatwright?

7 A Yes.

8 Q Who was your caretaker throughout the evening and
9 all during the night hours and into the early morning hours
10 of July 20th and July 21st?

11 A He was.

12 Q Did anything happen during that time?

13 A Yes.

14 Q What was that?

15 A Same thing that I already described.

16 Q Okay. What, if anything, did he use when that
17 occurred?

18 A A gun.

19 Q What are some rooms in the house that you remember
20 -- did it happen one time or more than one time that
21 evening?

22 A More than once.

23 Q During that 24 hour period?

24 A Yes.

25 Q And then ultimately, did someone come and get you?

Minor - Direct Examination In Camera by Ms. Mayes

- 1 A Yes.
- 2 Q Who was that?
- 3 A My grandparents.
- 4 Q And for what reason did they come and get you?
- 5 A Because we wasn't allowed to be around him because
- 6 of the allegations a woman in Texas had made that he
- 7 bothered her.
- 8 Q Are you referring to the safety plan?
- 9 A Yes.
- 10 Q All right. Well, let me ask it this way: Did
- 11 someone in Kentucky come and get you?
- 12 A Yes.
- 13 Q Who is that person?
- 14 A My grandparents.
- 15 Q And where were you taken?
- 16 A To Kentucky.
- 17 Q All right. So once you went back to Kentucky, did
- 18 you ever see the defendant Richard Boatwright again?
- 19 A Yes.
- 20 Q What was the occasion in which you saw him again?
- 21 A My mother's birthday.
- 22 Q And do you know your mother's birthday?
- 23 A [REDACTED].
- 24 Q Okay. So it would be [REDACTED] of what year?
- 25 A 2012.

Minor - Direct Examination In Camera by Ms. Mayes

- 1 Q 2012.
- 2 A Yes.
- 3 Q And had your mother maintained contact with him?
- 4 A Little.
- 5 Q Okay. Eventually your mother was released from
- 6 jail?
- 7 A Yes.
- 8 Q And so on [REDACTED], 2012, where did you see
- 9 Mr. Boatwright?
- 10 A At my aunt's house.
- 11 Q In what state?
- 12 A Kentucky.
- 13 Q And did he stay over?
- 14 A Yes.
- 15 Q Did anything happen on that occasion?
- 16 A Yes.
- 17 Q What was that?
- 18 A Same things that I've already described.
- 19 Q He had sexual contact with you?
- 20 A Yes.
- 21 Q Was anyone else physically there in the room with
- 22 you when that occurred?
- 23 A No.
- 24 Q What time of day or night was that?
- 25 A Afternoon.

Minor

- Direct Examination In Camera by Ms. Mayes

1 Q And was anyone else aware of it at this time?

2 A No.

3 Q Eventually, did you tell someone about this?

4 A Yes.

5 Q Who did you tell?

6 A The first person I told would be my best friend in
7 Kentucky. And then she convinced me to -- I should tell my
8 mother.

9 Q And did you tell your mother?

10 A Yes.

11 Q And when you told your mother, did you talk to law
12 enforcement about this?

13 A Yes.

14 Q And you reported that he had done these things that
15 you've described?

16 A Yes.

17 MS. MAYES: Beg the Court's indulgence.

18 (There was a pause in the proceedings.)

19 BY MS. MAYES:

20 Q I'm going to start by asking you whether or not
21 Mr. Boatwright had a computer?

22 A He did.

23 Q And who all in your family had a computer?

24 A He did.

25 Q When you lived here in South Carolina?

Minor - Direct Examination In Camera by Ms. Mayes

1 A He did and my mother did.

2 Q All right. And whose computer would you use to do
3 school work?

4 A My mother's.

5 Q All right. And who used his computer, the computer
6 that you're calling his?

7 A Him only.

8 Q And did he ever take it anywhere with him?

9 A He took it when he went to work.

10 Q And what kind of work was he doing?

11 A He drove a semi truck.

12 Q And when he would return --

13 A He would have his computer.

14 Q All right. I'm going to show you something, Minor.

15 (State's Exhibit Number 1 was marked for
16 Identification.)

17 BY MS. MAYES:

18 Q Do you recognize this item?

19 A Yes.

20 Q How do you recognize it?

21 A His computer.

22 Q And when you say his, you're referring to who?

23 A The defendant.

24 Q Can you tell us whether or not he had a camera?

25 A Yes.

Minor - Direct Examination In Camera by Ms. Mayes

1 Q The camera that he had, can you tell us whether he
2 ever used it in Kentucky?

3 A Yes.

4 Q I'm going to show you a picture and ask you whether
5 or not you recognize it.

6 A Yes.

7 Q What was that event?

8 A It was a car show.

9 Q All right. And what state was that car show in?

10 A Kentucky.

11 Q Was someone taking pictures that day?

12 A Yes.

13 Q Who had a camera taking pictures that day?

14 A He did.

15 Q Let me show you a set of pictures and ask you
16 whether you can recognize the location; and I want you to
17 look carefully into the background.

18 A Okay. That's in Kentucky.

19 Q And you say that's in Kentucky, who lived at that
20 location in Kentucky?

21 A Me, my brother, my grandparents, and he was there
22 most of the time.

23 Q These photos are covered up from the body, but I
24 want you to look at the face?

25 A That's me.

Minor - Direct Examination In Camera by Ms. Mayes

1 Q That's you?

2 A Yes.

3 Q Minor who took these pictures?

4 A He did.

5 MS. MAYES: Your Honor, this would be State's
6 Exhibit 1 through -- I'm sorry 2 through 6.

7 THE COURT: 2 through 6?

8 MS. MAYES: Yes, sir, Your Honor.

9 (State's Exhibit Number 2, Number 3, Number 4, and
10 Number 5, were marked for Identification.)

11 THE COURT REPORTER: State's ID, Your Honor.

12 THE COURT: All right.

13 BY MS. MAYES:

14 Q Minor, after you lived in Kentucky, you testified
15 that you lived in Texas?

16 A Yes.

17 Q Do you know whether that same camera that you
18 described him having in Kentucky, whether he had that in
19 Texas?

20 A He did.

21 Q What happened in Kentucky, can you tell us whether
22 or not that also happened in Texas?

23 A It did.

24 Q With the photographs?

25 A Yes.

Minor - Direct Examination In Camera by Ms. Mayes

1 Q Who would tell you how to pose for the photographs?

2 A He would.

3 Q Was anyone else present in the room?

4 A No.

5 MS. MAYES: Beg the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 (There was a pause in the proceedings.)

8 BY MS. MAYES:

9 Q Minor, I'm going to show you a photograph and ask
10 you -- it's covered up, but I want you to look at the face
11 and ask you whether or not you know who's in that
12 photograph?

13 A That's me.

14 Q Where was that photograph taken?

15 A Texas.

16 Q Whose bedroom is that?

17 A Mine.

18 Q How do you recognize the bedroom?

19 A My bed.

20 Q What color was your bed?

21 A White.

22 Q And your sheets?

23 A They was funky colored.

24 Q Striped?

25 A Yes.

Minor - Direct Examination In Camera by Ms. Mayes

- 1 Q And you recognize that as your bedroom in your
2 family home in Texas?
- 3 A Yes.
- 4 Q Who took that photograph?
- 5 A He did.
- 6 Q And if you could, these are also covered up, I want
7 you to just look briefly.
- 8 A Okay. That's my bed.
- 9 Q And who's in the photograph?
- 10 A Me.
- 11 Q With the Brown hair?
- 12 A Yes.
- 13 Q You recognize that?
- 14 A Yes.
- 15 (Showing a photograph) That would also be me in my
16 bed.
- 17 (Showing a photograph.) Me in my bed.
- 18 (Showing a photograph) me in my bed.
- 19 Q Okay. And all of these photos were taken in what
20 state?
- 21 A Texas.
- 22 Q And by who?
- 23 A He.
- 24 Q Referring to the defendant?
- 25 A Yes.

Minor - Direct Examination In Camera by Ms. Mayes

1 MS. MAYES: Your Honor, this would be the State's 6
2 through 11 for evidence. I believe I misspoke before. We
3 only have 2 through 5 marked at this time.

4 (State's Exhibit Number 6, Number 7, Number 8,
5 Number 9, Number 10, Number 11 were marked for
6 Identification.)

7 THE COURT: All right. 6 through 11, correct?

8 THE COURT REPORTER: Yes, sir, for ID.

9 THE COURT: All right.

10 BY MS. MAYES:

11 Q Now, Minor after you moved here to South Carolina,
12 can you tell us whether or not he had the camera here in
13 South Carolina?

14 A He did.

15 Q Can you tell us whether or not there was any
16 statements made by him whether or not -- about taking
17 photos here in South Carolina?

18 A He wanted to.

19 Q And what was your reaction to that?

20 A No.

21 Q And where did you last see the camera?

22 A South Carolina.

23 Q With whom?

24 A Him.

25 Q And that computer --

Minor - Direct Examination In Camera by Ms. Mayes

1 MS. MAYES: Which would be State's Exhibit 1 for
2 I'd, Your Honor.

3 BY MS. MAYES:

4 Q This Dell Inspiron computer, where did you last see
5 that computer?

6 A South Carolina.

7 Q With who?

8 A Him.

9 Q Now, was there ever anything else that he wanted to
10 use with you in South Carolina?

11 A Yes.

12 Q What was that?

13 A Sex toys.

14 Q And who had the sex toys?

15 A He did.

16 Q Was that one or more than one?

17 A More than one.

18 Q Where did you last see the sex toys?

19 A South Carolina.

20 Q With whom?

21 A Him.

22 Q I'm going to show you some photographs and ask you
23 whether or not you recognize the location. When you went
24 to Kentucky, you testified that after your mom got
25 arrested, your grandparents came and got you.

Minor

- Direct Examination In Camera by Ms. Mayes

1 A Yes.

2 Q When you went to Kentucky, how much stuff did you
3 have time to pack?

4 A Hardly any.

5 Q Can you tell us whether or not your room remained
6 the same?

7 A It did.

8 Q Sheets on your bed?

9 A Yes.

10 Q Toys in your room?

11 A Yes.

12 Q Clothes in your room?

13 A Yes.

14 Q Blankets and personal items in your room?

15 A Yes.

16 Q Do you also have a bathroom near your room?

17 A Yes.

18 Q What color were the curtains in that bathroom?

19 A Like a peachy pink color.

20 Q I know you said that there were sex toys. I'm just
21 going to ask you what were the sex toys shaped like that
22 you saw him with?

23 A A man's private area.

24 Q Okay. And did you see that one time or more than
25 one time?

Minor - Direct Examination In Camera by Ms. Mayes

- 1 A More than once.
- 2 Q And you last saw those toys where?
- 3 A South Carolina.
- 4 Q With who?
- 5 A Him.
- 6 Q I'm going to show you these items and ask you
7 whether or not you recognize where these were taken?
- 8 A In my bedroom.
- 9 Q In what State?
- 10 A South Carolina.
- 11 Q In what County?
- 12 A Lexington County.
- 13 Q How do you recognize this as being Lexington as
14 opposed to the other photos that had the same bed and the
15 same sheets in Texas?
- 16 A The room is so different in Texas. My night stand
17 would have been on the other side of the bed. And you can
18 tell from the carpet because my room's not -- and Texas had
19 hardwood floors.
- 20 Q Okay. Your room in Lexington had carpet?
- 21 A Yes.
- 22 Q Do you recognize the carpet in this photograph?
- 23 A Yes.
- 24 Q Where was this taken?
- 25 A In South Carolina.

Minor - Direct Examination In Camera by Ms. Mayes

1 Q Did anyone in your home in Lexington have
2 pornographic magazines?

3 A Yes.

4 Q Who was that person?

5 A He did.

6 Q Did he have one or more than one?

7 A More than one.

8 Q Where did you last see those items?

9 A South Carolina.

10 Q Do you recognize this location?

11 A Yes.

12 Q What is that?

13 A The bathroom in South Carolina.

14 (Showing a photograph) That would be my bed in
15 South Carolina.

16 (Showing a photograph) And the bathroom in South
17 Carolina again.

18 Q Now, I'm going to show you an item --

19 A Uh-huh.

20 Q Where was that photograph taken?

21 A From my dresser in South Carolina.

22 Q You said my dresser. How do you recognize that as
23 your dresser?

24 A The objects on it.

25 Q This would be in Lexington County?

Minor - Direct Examination In Camera by Ms. Mayes

1 A Yes.

2 Q Now, there is a dry eraser board.

3 A And that would be his handwriting on it.

4 Q The dry eraser board, did it look like that when
5 you last saw it?

6 A It didn't have that wrote on it.

7 Q Okay. So that was written after you left?

8 A Yes.

9 Q And did you write that?

10 A No.

11 MS. MAYES: And, Your Honor, this would be 12, 13,
12 14, 15, and 16 for identification at this point. 12
13 through 16.

14 (State's Exhibit Number 12, Number 13, Number 14,
15 Number 15, and Number 16 were marked for Identification.)

16 THE COURT: 12 through 16?

17 MS. MAYES: Yes, sir, Your Honor.

18 BY MS. MAYES:

19 Q Now, can you describe the incident that occurred on
20 July 20th, 2012, which was the day that your mother was
21 arrested, that he had a gun. Can you describe that gun?

22 A It was a silver revolver with a black handle.

23 Q I'm going to show you two items and ask you whether
24 or not you recognize what is in this photograph?

25 A The gun he had. And it would be the same gun.

Minor - Direct Examination In Camera by Ms. Mayes

1 Q That appears to be the same gun?

2 A Yes.

3 MS. MAYES: Your Honor, I believe this would be 17
4 and 18 for identification.

5 (State's Exhibit Number 17 and Number 18 were
6 marked for Identification.)

7 BY MS. MAYES:

8 Q And if we could, Minor, just kind of briefly help us
9 figure out the time frame here. You testified that your
10 mom and he met each other and began dating in what year?

11 A 2010.

12 Q In the State of Kentucky?

13 A Yes.

14 Q And you were how old?

15 A 10.

16 Q And that happened more than one time?

17 A Yes.

18 Q Then you lived in Texas?

19 A Yes.

20 Q Do you know the approximate time frame that you
21 guys moved to Texas?

22 A From July of 2011 to February of 2012.

23 Q So that would have covered age 10 through age 11.

24 A Yes.

25 Q And then your testimony was that was more than one

Minor - Direct Examination In Camera by Ms. Mayes

1 time?

2 A Yes.

3 Q And then in Lexington County, when did you reside
4 here?

5 A From February of 2012 to July of 2012.

6 Q And your birthday is when?

7 A [REDACTED].

8 Q Of what year?

9 A 2000.

10 Q So you would have been age 11 in Lexington County?

11 A Yes.

12 Q And again, by this point it included intercourse
13 and oral sex?

14 A Yes.

15 Q Was that one time or more than one time?

16 A More than one time.

17 Q When you last saw that gun, who was it with?

18 A Him.

19 Q Did you know that he had put the photographs on a
20 computer?

21 A No.

22 MS. MAYES: Nothing further.

23 THE COURT: Thank you, Solicitor.

24 Ms. Fullwood.

25 MS. FULLWOOD: Thank you, Your Honor.

Minor - Cross-Examination In-Camera by Ms. Fullwood

CROSS-EXAMINATION IN-CAMERA

BY MS. FULLWOOD:

Q Minor, how many months did Rick live with you and your family in Kentucky?

A From about November when they met until May when we left Kentucky.

Q So May of the next year?

A Yes.

Q That was May of --

A 2011.

Q 11. All right. So about seven months?

A Yeah.

Q Okay. And then you guys lived in Texas for about seven months; is this right?

A Yes.

Q And then South Carolina about four?

A Yeah.

Q Maybe a little more?

A (Witness nodded head.)

Q In Kentucky, did you ever -- I know you testified you didn't tell your mom. Did you ever tell any of your friends about this, what was going on?

A No.

Q Any other relatives?

A No.

Minor - Cross-Examination In-Camera by Ms. Fullwood

1 Q A teacher?

2 A No.

3 Q Did you go to a regular school then?

4 A Yes.

5 Q Okay. Now, how about Texas, did you --

6 A I never told anyone.

7 Q Now, there was a girl named Summer --

8 A Uh-huh.

9 Q -- is that who you're referring to about another

10 woman said something in Texas?

11 A Yes.

12 Q Okay. Now, she didn't say that he tried to do

13 something to her. She said that she saw you -- him trying

14 to do something to you; isn't that correct?

15 A She's told me that he attempted to bother her also.

16 Q Okay. When did she tell you that?

17 A The last time we spoke.

18 Q And when was that?

19 A It's been a while. I don't remember.

20 Q I mean is this -- is this contemporaneous with when

21 it was happening or maybe over the phone or --

22 A It was after it happened.

23 Q After it happened. So when you were a little more

24 grown up?

25 A Yeah. Yeah.

Minor - Cross-Examination In-Camera by Ms. Fullwood

1 Q Okay. Okay. And in Texas, you went to a school,
2 right?

3 A Yes.

4 Q All right. And same thing, didn't tell a friend or
5 a teacher?

6 A I told no one.

7 Q Didn't tell anybody. And then you went back to
8 Kentucky right when your mom was arrested, right?

9 A Yes.

10 Q And didn't Rick call your grandparents and say you
11 need to come pick them up because Crystal, your mom --

12 A Yes.

13 Q -- has been arrested? Okay.

14 Now, before you moved back to Kentucky, didn't your
15 family have some interaction with the South Carolina DSS?

16 A Yes.

17 Q Remember when a worker or two came out to your
18 house?

19 A Yes.

20 Q Okay. And you and Jarrett, Rick and your mom were
21 there?

22 A Yes.

23 Q Okay. And at that time, didn't one of those
24 workers talk to you alone in your room?

25 A Yes.

Minor - Cross-Examination In-Camera by Ms. Fullwood

1 Q And didn't she ask you if something bad had
2 happened or if Rick had done something to you?

3 A She did.

4 Q And what did you tell her?

5 A I denied it.

6 Q Okay. And you moved back to Kentucky and at some
7 point, the Department of Social Services there came to talk
8 to you again; is that right?

9 A I believe so.

10 Q Okay. And I think the first time you talked to the
11 person was in -- what was it, March of 2012; is that about
12 right?

13 A It would have been March of 2013.

14 Q 2013. Okay. And at that time, did -- she asked
15 you the same thing, right?

16 A (Witness nodded head.)

17 Q And at that time you told her nothing had happened,
18 right?

19 A I denied it again.

20 Q Okay. And then that following August you talked to
21 her another time, right?

22 A Yes.

23 Q All right. And then you told her about things that
24 had happened; is that right?

25 A Yes.

Minor - Cross-Examination In-Camera by Ms. Fullwood

1 Q Okay. What happened during those months that made
2 you change your mind about talking about it?

3 A I seen he was finally gone and out of the picture
4 and that his threats of trying -- that he'd kill me if I
5 ever said anything or he'd have someone to kill me didn't
6 mean anything anymore. I wasn't scared of him anymore. He
7 wasn't there, so I wasn't afraid to tell someone what
8 happened.

9 Q Okay. And your parents -- well, not your parents,
10 but your mother and your step dad, at that point, they were
11 going through a divorce; isn't that correct?

12 A Yes.

13 Q And they had been for a while, correct?

14 A Yes.

15 Q Well, a couple of months after she moved back, your
16 mom filed for divorce; isn't that right?

17 A Yes.

18 Q Is it because you told her this had happened or for
19 other reasons?

20 A It was before I told her that it happened that she
21 filed for divorce.

22 Q Okay. And, obviously, there was never any question
23 about custody between her and Rick because he's not your
24 dad, right?

25 A Uh-huh.

Minor

- Cross-Examination In-Camera by Ms. Fullwood

1 Q Now, since you've been back in Kentucky, has there
2 been -- has there been some custody issues between your
3 natural dad and your mom?

4 A Yes.

5 Q When was that?

6 A The last time I seen my biological father would be
7 in court on my 13th birthday.

8 Q Okay. So when you were 13?

9 A Yes.

10 Q Okay. And custody was awarded to your mom?

11 A He could have visitation rights, but like I said,
12 it's been almost three years and he hasn't attempted it, so
13 he's out of the picture.

14 Q Oh, okay.

15 A Yeah.

16 Q I see. Now, do you remember what make this camera
17 was that Rick had?

18 A I believe it was Sony.

19 Q Okay. Now, at that time, did you, your mom, or
20 your brother, any of y'all have cameras?

21 A My mother would have had one.

22 Q Okay. What about you and your brother? If y'all
23 wanted to take a picture, what would y'all have used?

24 A We would have used hers.

25 Q Used your mom's?

Minor - Cross-Examination In-Camera by Ms. Fullwood

1 A Yes.

2 Q Okay. Y'all didn't have phones that would take
3 cameras (verbatim), anything like that?

4 A No.

5 Q Okay. I guess y'all were kind of young.

6 A Yeah.

7 Q Okay. And you testified that he wanted to take
8 pictures of you in South Carolina?

9 A Yes.

10 Q And you said no?

11 A Yes.

12 Q And you say he listened to you about that? In
13 South Carolina?

14 A Probably not. He always would -- done what he
15 wanted any way.

16 Q Okay. You also said that he wanted to use sex toys
17 with you while in South Carolina?

18 A Yes.

19 Q How -- how -- why didn't that happen?

20 A I stopped him.

21 Q Okay. You're saying you stood up for yourself?

22 A Yes.

23 Q Okay. Is it your testimony he ever hit you or
24 hurt --

25 A He did.

Minor

- Cross-Examination In-Camera by Ms. Fullwood

1 Q About this -- okay. Tell me about that.

2 A If I ever told him no, he'd always hit me, trying
3 to make himself bigger than me and just basically use force
4 to get his way.

5 Q Okay. And your mama never noticed bruises or
6 anything like that on you?

7 A I always stayed covered up.

8 Q Okay. And when you guys moved to South Carolina,
9 your mom didn't send you to school; is that right?

10 A That's correct.

11 Q Why's that?

12 A She home schooled us so our biological father
13 couldn't find us.

14 Q Okay. What was that about?

15 A Because when we left Kentucky in May, it was
16 because he had threatened to kill us and burn our house
17 down with us in it.

18 Q Okay. And your mother took that as a very serious
19 threat?

20 A Yes.

21 Q Okay. But when you're in Texas, you were in
22 school, right?

23 A Yes.

24 Q That's where you went directly to Texas, right?

25 A Yes.

Minor

- Redirect Examination In Camera by Ms. Mayes

1 Q Y'all weren't afraid of him being, enrolled in a
2 public school down there?

3 A We was, that's why -- that's when he found us in
4 Texas. That's why we moved away to South Carolina.

5 Q How -- how did you -- how do you know he found you?

6 A Because the school told us that he was trying to
7 come after us.

8 Q Okay. And then you moved up here?

9 A Yes.

10 Q Over here?

11 A Yeah.

12 Q Okay.

13 MS. FULLWOOD: Beg the Court's indulgence.

14 THE COURT: Yes, ma'am.

15 (There was a pause in the proceedings.)

16 MS. FULLWOOD: Minor, thank you, I don't have any
17 more questions.

18 THE COURT: Redirect, Solicitor?

19 MS. MAYES: Yes, sir, Your Honor.

20 **REDIRECT EXAMINATION IN-CAMERA**

21 BY MS. MAYES:

22 Q Now, just to clarify, Ms. Fullwood was asking you
23 about a little girl in Texas. How did you know that child?

24 A I went to school with her.

25 Q All right. And her name was Summer?

Minor - Redirect Examination In Camera by Ms. Mayes

- 1 A Uh-huh.
- 2 Q Did she ever stay over at your house?
- 3 A Yes.
- 4 Q Was there ever a time when she stayed over at your
5 house when something happened that was inappropriate?
- 6 A Yes.
- 7 Q Were you touched on that occasion?
- 8 A Yes.
- 9 Q By who?
- 10 A Him.
- 11 Q Referring to Mr. Boatwright?
- 12 A Yes.
- 13 Q Was Summer in the room when that happened?
- 14 A Yes.
- 15 Q Eventually and for purposes of the hearing, let me
16 ask you like this. Eventually did you find out that a
17 report had been made?
- 18 A Yes.
- 19 Q By Summer?
- 20 A Yes.
- 21 Q And did a DSS worker come to your house?
- 22 A Yes.
- 23 Q Did that DSS worker ask you if anybody had touched
24 you?
- 25 A Yes.

Minor - Redirect Examination In Camera by Ms. Mayes

1 Q What did you tell the DSS worker?

2 A I denied it.

3 Q Why did you deny it?

4 A Because I was scared of him and what he would do to
5 me if I ever actually told anyone.

6 Q Were you still living with he and your mom at that
7 point in time?

8 A Yes.

9 Q When the DSS worker came to the house, was he
10 there?

11 A Yes.

12 Q And eventually, was a safety plan signed?

13 A Yes.

14 Q That meant he wasn't supposed to be with you?

15 A Yes.

16 Q But did your mom and he still have contact even
17 after that safety plan?

18 A Yes.

19 Q Okay. And Ms. Fullwood was asking you about some
20 -- I believe some caseworkers or a forensic interviewer in
21 the state of Kentucky?

22 A Yes.

23 Q When they first asked you about this, what did you
24 say?

25 A I denied it.

Minor - Redirect Examination In Camera by Ms. Mayes

1 Q And why so?

2 A Because he was still appearing to be in the picture
3 and wanting to try and be around.

4 Q He and your mother were still in communication?

5 A Yes.

6 Q Can you tell us whether or not you felt safe to
7 tell at that point?

8 A No, I did not.

9 Q What made you eventually feel safe to tell?

10 A When I finally seen that she was divorcing him and
11 that he would be gone and anything he said couldn't hurt me
12 anymore.

13 Q And eventually, did your mom actually file divorce
14 papers?

15 A Yes, sir.

16 Q And stop contact with him?

17 A Yes.

18 Q Is that the time frame that you're referring to?

19 A Yes.

20 Q And so in March of 2013, after your mom was
21 pursuing the divorce, did you go for a forensic interview?

22 A Yes.

23 Q And you were asked about this?

24 A Yes.

25 Q At that point in time did you admit that this

Minor - Recross-Examination In Camera by Ms. Fullwood

1 happened?

2 A Are we talking about the second time now?

3 Q Yes. Second.

4 A Then yes. I did admit it.

5 Q You mentioned that you were afraid of him, but in
6 general, what if any concerns did you have about your
7 family if you told when you were all living together.

8 A He always told me it was the only reason that he
9 stayed around anymore and that he didn't care what happened
10 to us and as long as I stayed quiet, that he'd stay and
11 take care of us.

12 Q Was your mom working when y'all lived in South
13 Carolina?

14 A No.

15 Q Who was the financial provider?

16 A He was.

17 MS. MAYES: That's all from Miss Minor, Your
18 Honor.

19 THE COURT: All right. Ms. Fullwood, recross?

20 MS. FULLWOOD: Just very briefly, Your Honor.

21 **RECROSS-EXAMINATION IN CAMERA**

22 **BY MS. FULLWOOD:**

23 Q When y'all lived in South Carolina, Rick worked,
24 right?

25 A Yes.

Minor - Recross-Examination In Camera by Ms. Fullwood

1 Q And where did he work?

2 A He worked on the road as a truck driver.

3 Q So he's a long distance truck driver, correct.

4 A Yes.

5 Q Okay. And that job required him to be away from
6 home for a week or up to 10 days at a time sometimes,
7 right?

8 A Most of the time it would just be during the
9 weekdays he was on, then he'd be home during the weekends.

10 Q Okay. But it varied from job to job; is that fair
11 to say?

12 A Yes.

13 MS. FULLWOOD: No further questions.

14 THE COURT: Thank you, thank you very much, Miss
15 Minor. You may step down.

16 MS. MAYES: Your Honor, the State would call
17 Detective Traci Barr.

18 THE COURT: All right. If you'd come around and be
19 sworn, please.

20 TRACI BARR,
21 having been duly sworn, testified as follows:

22 THE CLERK: Have a seat up there. Once you're
23 seated, state your full name, spelling your last on the
24 record, please.

25 THE WITNESS: Traci, T-R-A-C-I, Barr, B-A-R-R.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 DIRECT EXAMINATION IN CAMERA

2 BY MS. MAYES:3 Q And Detective Barr, where are you currently
4 employed?

5 A The Lexington County Sheriff's Department.

6 Q In what capacity?

7 A I'm a sergeant over the special victim's unit.

8 Q And special victim's unit, does that include cases
9 of criminal sexual conduct and sexual exploitation of a
10 minor?

11 A It does.

12 Q In addition to that, what involvement do you have
13 with what's known as the ICAP team?14 A I'm a part of a national task force associated with
15 the attorney general's office in South Carolina where we --
16 we work with the State, federal, and local law enforcement
17 in undercover and sexual exploitation cases across the
18 nation that often have a lot of victims also.

19 Q ICAP, is an acronym for what?

20 A It's Internet Crimes Against Children.

21 Q Internet Crimes Against Children. And you have
22 special training in that regard?

23 A Yes, I do.

24 Q Now, is there anyone at the Lexington County
25 Sheriff's Department that is specifically trained in the

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 forensic analysis of computers and data and digital images
2 within those computer systems?

3 A There is. His name is Investigator Mike Phipps.

4 Q All right. State's Exhibit 1 for ID at this time
5 is a Dell computer, laptop. Are you familiar with that
6 item?

7 A Yes, I am.

8 Q How did that come into -- can you tell us whether
9 or not that is currently in the possession of law
10 enforcement?

11 A It is.

12 Q How did law enforcement come into possession of
13 that item?

14 A If I can refer to my supplemental?

15 Q Okay.

16 A During December 10th, 2013, I was assigned an
17 investigation as a detective of the major crimes division
18 and Amanda Crider and Courtney McDaniel had filed an
19 incident report with our sheriff's department. There was a
20 report written by Deputy Barrett. During that time frame
21 when Deputy Barrett took this initial report, there were
22 images of sexual nature found on a Dell Inspiron laptop
23 that Amanda Crider and Courtney McDaniel had in their
24 possession while in front of Deputy Barrett.

25 As they're explaining what they found on the

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 laptop, which prompted their call to law enforcement,
2 Deputy Barrett observed sexually explicit images of a
3 child, nude. And there was also an image with an object
4 protruding out of this child's vagina on that laptop.

5 Q All right. All right. And how -- these
6 individuals that you mentioned, Amanda Crider and Courtney
7 McDaniel, they were the people who turned the laptop over
8 to law enforcement, correct?

9 A Correct.

10 Q Can you tell us, based upon your investigation how
11 they became -- how they came into possession of that
12 laptop?

13 A Yes. Amanda Crider received a letter from Richard
14 Boatwright who was housed in the Lexington County Detention
15 Center during that time. He listed items in a letter, that
16 he signed as Richard Boatwright, various personal items of
17 his and one of which was a laptop computer. It was
18 ultimately retrieved from a location of [REDACTED] Edmond Highway
19 and [REDACTED] Convent Church Road in the Leesville area of
20 Lexington, South Carolina.

21 Q All right.

22 A Mr. Terry Harwell was the landlord of that
23 residence at the time, who was with them when they
24 retrieved -- when Amanda Crider retrieved this laptop.

25 Q Okay. And Courtney McDaniel?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A Correct.

2 Q Now, you mentioned Terry Harwell is the landlord.

3 Who is Debby Harwell?

4 A That is his wife.

5 Q All right.

6 A The aunt and uncle of Richard Boatwright.

7 Q Okay. So they were the landlords for whose
8 residence?

9 A For Boatwright's residence.

10 Q For the defendant's residence?

11 A Correct.

12 Q And where was the defendant at that time?

13 A At that time he was housed at the Lexington County
14 Detention Center. Mark McDaniel, from my understanding,
15 was also housed there, that's Amanda Crider's father.

16 Q Why was the defendant, Richard Boatwright, at the
17 Lexington County Detention Center during that time period?

18 A At the time of my incident report, December 10th,
19 2013, I had prior knowledge that Detective Stoner was
20 previously investigating a case where she had charged
21 Richard Boatwright for a sexual assault of a minor who was
22 named Minor at that time.

23 Q Was that Minor ?

24 A Yes, Minor .

25 Q And on what date was he arrested by Detective

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Stoner on that charge?

2 A If I can return to my --

3 Q Okay.

4 A On June 27, 2013, Boatwright was arrested for that
5 charge.

6 Q For criminal sexual conduct with a minor?

7 A Criminal sexual conduct with a minor.

8 Q Did he remain at the Lexington County Detention
9 Center following his arrest on June 27th, of 2013?

10 A Yes, he did.

11 Q All right. So taking it about six months forward
12 to December of 2013, when you -- or when the sheriff's
13 department came in possession of the laptop, was he still
14 in the detention center at that time?

15 A Correct.

16 Q And your understanding is that these third parties,
17 Amanda Crider and Courtney McDaniel, had retrieved that
18 laptop from whose residence?

19 A From Richard Boatwright's residence.

20 Q All right. And were the landlords also involved in
21 that?

22 A Yes, they were.

23 Q The transfer of those items?

24 A Yes.

25 Q And that's a Debbie and Terry Harwell?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A Correct.

2 Q And did they sign paperwork to that effect?

3 A They did.

4 Q All right. And did that include the transfer of a
5 property item identified as a laptop?

6 A Yes.

7 Q I believe, according to testimony, after Courtney
8 McDaniel and Amanda Crider came into possession of that
9 laptop, they actually observed the images?

10 A Yes. If you don't mind if I read from my --

11 Q Okay.

12 A -- my report. Courtney McDaniel received this
13 laptop from Amanda Crider who gave it to her. She kept it
14 for two days before opening the laptop. Once she opened
15 the laptop, she noticed contents on it of a sexual nature
16 involving naked children. She said she -- Courtney --
17 excuse me for one moment.

18 (There was a pause in the proceedings.)

19 THE WITNESS: Courtney McDaniel provided written
20 statement to the sheriff's department to Deputy Barrett and
21 she also indicated that when she turned the computer on,
22 she randomly clicked on things and saw what was on the
23 computer. One part of the C drive, she saw a folder that
24 had Rick on it. Courtney said that she clicked on the
25 folder and several other folders were labeled. Courtney

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 was showing them to Barrett, those folders, while filing
2 this incident report with Amanda Crider and explained what
3 she found at that time.

4 There were folders labeled different things related
5 to the sexual nature. And one folder stood out to Deputy
6 Barrett, which was labeled Minor's naked pics. Courtney
7 said, I think that's the girl that he's in jail for right
8 now. Isn't her name Minor. Amanda Crider, from my
9 understanding and Courtney McDaniel were not familiar with
10 -- never met Minor -- it's my understanding were not
11 familiar with who she was other than that investigation
12 that Detective Stoner conducted.

13 Deputy Barrett observed several photographs along
14 with Courtney McDaniel. And one that immediately appeared,
15 an underage child completely nude from head to toe. The
16 child appeared to be 10 years of age, maybe a little older
17 and there were several photographs of her bent forward and
18 with someone that appeared to be standing behind her taking
19 these pictures of her vagina.

20 Q All right. So let me stop you right there. Have
21 you had the opportunity to review some of these images with
22 Detective Mike Phipps?

23 A Yes.

24 Q The image that was described involving a Sharpee
25 object, can you tell us whether or not you recognize this

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 image?

2 A Yes, I do.

3 Q Can you tell us whether or not that's one of the
4 images recovered from the computer by Detective Phipps?

5 A It is.

6 Q Okay.

7 MS. MAYES: Your Honor, I believe this would be 17
8 for evidence -- 18 -- 19.

9 (State's Exhibit Number 19 was marked for
10 Identification.)

11 THE COURT: All right.

12 BY MS. MAYES:

13 Q So in summary, Detective Barr, can you tell us
14 whether or not the name Rick was found to be associated
15 with that computer?

16 A Yes.

17 Q Based on the examination by Detective Phipps?

18 A Based on that forensic examination, correct.

19 Q Was that a user name for this account?

20 A Yes.

21 Q Was it the only named user for this account?

22 A From my understanding, yes.

23 Q And can you tell us what, if anything is the
24 significance of Minor's naked pics?

25 A As I stated before, I knew a prior investigation by

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

1 Detective Stoner involving a victim named Minor --
2 could you ask that question one more time? I'm sorry.

3 Q Yes. Can you tell us whether or not there is a
4 folder or folder of photographs was identified labeled
5 Minor 's naked pics?

6 A Yes, there is on the C drive.

7 Q Within this computer?

8 A Correct.

9 MS. MAYES: Nothing further, Your Honor.

10 THE COURT: Thank you, Solicitor. Ms. Fullwood?

11 MS. FULLWOOD: Thank you, Your Honor.

12 CROSS-EXAMINATION IN-CAMERA

13 BY MS. FULLWOOD:

14 Q Detective Stoner, isn't it --

15 A Barr -- I'm sorry.

16 Q Excuse me. Isn't it correct that these items were
17 actually retrieved by Ms. Crider and/or Ms. McDaniel from
18 Edmond Highway where the Harwell's live?

19 A They had listed items that they had located from
20 both residences, the [REDACTED] Convent Church Road and the [REDACTED]
21 Edmond Highway, yes.

22 Q Okay. Well -- you've seen the release --

23 A Yes.

24 Q -- that was signed. And doesn't the release just
25 reference the Edmond Highway address? It doesn't talk

Traci Barr - Redirect Examination In Camera by Ms. Mayes

1 about Nazareth Church or Convent Church Road?

2 A Can I refer to my report real quick?

3 Q Yeah, would you like to see the receipt?

4 A Sure.

5 Q Okay.

6 A And that is a written statement by Amanda Crider
7 indicated from [REDACTED] Edmond Highway and then also [REDACTED]
8 Convent Church Road in Leesville, Lexington County.

9 Q These actually got into that residence?

10 A Terry Harwell, the landlord, the defendant's uncle.

11 Q Have you had a chance to look at the receipt?

12 A Yes, ma'am.

13 Q It does reference as Edmond Highway, right?

14 A At the top, yes, it is.

15 Q Okay. Thank you, that's all the questions I have.

16 THE COURT: Redirect, Solicitor?

17 MS. MAYES: Yes, sir, Your Honor. Just briefly.

18 **REDIRECT EXAMINATION IN-CAMERA**

19 BY MS. MAYES:

20 Q Based upon your investigation and the investigation
21 of law enforcement, did the Harwells live with Minor and her
22 family in Kentucky and Texas?

23 A No, they did not.

24 Q Who was the person living with her family?

25 A Richard Boatwright.

1 MS. MAYES: Nothing further.

2 THE COURT: Recross, Ms. Fullwood?

3 MS. FULLWOOD: No, Your Honor.

4 THE COURT: Thank you. Thank you, Detective Barr.

5 THE WITNESS: Thank you, sir.

6 MS. MAYES: Your Honor, at this time, the State
7 would offer for the Court's examination the grouped photos.
8 And they are separated out for the photographs in Kentucky,
9 which are State's 5 through -- 2 through 5. The
10 photographs from the state of Texas, which are State's 7
11 through 11, and then also State's Exhibit 19. And then the
12 photographs which were taken in Lexington County, State's
13 Exhibit 12 through State's Exhibit 15.

14 THE COURT: All right.

15 MS. MAYES: Your Honor, that would be all from the
16 State for purposes of this hearing establishing the clear
17 and convincing evidence component of the ongoing elicit
18 sexual activity between Minor and the defendant.

19 THE COURT: All right. Thank you.

20 Ms. Fullwood?

21 MS. FULLWOOD: Your Honor, we're not going to put
22 up any evidence.

23 THE COURT: All right. Thank you. Thank you very
24 much.

25 Solicitor, I'll be glad to hear from you.

1 MS. MAYES: Your Honor, in reviewing the case law,
2 which supports the ongoing illicit activity between the same
3 victim and the defendant, there are numerous cases that
4 have been established throughout the years. Probably the
5 first and one of the oldest of the cases is a case called
6 State versus Widener and then in --

7 THE COURT: Was that a Richland County case?

8 MS. MAYES: I believe it was.

9 THE COURT: Two Notch Road?

10 MS. MAYES: I believe so, Your Honor.

11 THE COURT: The defendant from Newberry County? I
12 was just a chap then, but I remember it, Solicitor. Go
13 right ahead.

14 MS. MAYES: In 1984, the case of State versus
15 McLellan which upheld evidence from the primary victim
16 where she was allowed to testify about a pattern of prior
17 sexual assaults committed against her by the defendant.
18 The Court determined that the evidence of acts prior and
19 subsequent to the act charged in the indictment is
20 admissible to show continued illicit exploits between the
21 same parties.

22 We have a similar situation here, Your Honor, where
23 it began in Kentucky, continued through Texas, continued
24 into South Carolina and then there was a final incident in
25 Kentucky. It was ongoing throughout this entire period of

1 time when the defendant had access to the victim. From the
2 victim's testimony it never stopped, and in fact, escalated
3 over the course of time as she would attempt to resist him.

4 Your Honor, most recently, the 2008 case of State
5 versus curtain, at trial the State offered evidence of
6 prior bad acts through testimony from the victim that the
7 offenses began when she was approximately 6 or 7 years of
8 age. In addition the victim testified that the prior acts
9 occurred over the course of time and eventually escalated
10 into intercourse. The Court's Lyle analysis included an
11 examination of the key factors such as clear and convincing
12 evidence, whether it accomplished common scheme or plan,
13 which is exactly what the State argues in this case Your
14 Honor, pursuant to Rule 404(b) that this is clearly
15 evidence of an ongoing common scheme or plan on the part of
16 the defendant to engage in sexual activity with Minor

17
18 And finally whether the probative value of such
19 evidence outweighed the danger of unfair prejudice. Here,
20 Your Honor, the probative value cannot be more significant.
21 My understanding and my anticipation is that the defendant
22 will deny ownership of the computer. He will deny that he
23 has taken these photographs and placed them on the
24 computer. So the fact that Minor can establish that there
25 was ongoing contact in these other states, where those

1 photos were taken and that he's the one that took those
2 photos is absolutely probative to the fact that those
3 photos were found on his computer here in Lexington County.
4 So the photographs corroborate the criminal sexual conduct
5 case and also the inverse is true, the criminal sexual
6 conduct case corroborates the sexual exploitation case.

7 Your Honor, there's also several additional cases,
8 State versus Clasby and State versus Weaverling. Both of
9 which also support the ruling that where there is testimony
10 showing the same elicit contact, or conduct, with the same
11 victim under similar circumstances over a period of time,
12 it is admissible under Rule 404(b) after the Court conducts
13 its balancing test.

14 For all of these reasons, Your Honor. The State
15 maintains that this evidence is probative and necessary and
16 should be admissible under Rule 404(b).

17 THE COURT: All right. Thank you. Thank you,
18 Solicitor.

19 Ms. Fullwood?

20 MS. FULLWOOD: Thank you. Your Honor, I'm well --
21 well aware of the case law, but I'd point this out to the
22 Court: The actions in each state differ. The Kentucky
23 allegations just involve mere touching. The Texas
24 allegations involve intercourse and then the South Carolina
25 allegations are more dramatic -- there also intercourse,

1 but forceful, use of a weapon, and things of that nature.
2 I would say that they aren't a sufficient similarity to be
3 relevant in the trial of this case either as to the CSC
4 with a minor, second or third degree or on the sexual
5 exploitation of a minor. He's just charged with third
6 degree sexual exploitation of a minor. That's basically
7 possession.

8 So it doesn't matter who took the pictures. It
9 doesn't matter where the pictures were taken or under what
10 circumstances they were taken. It merely matters that this
11 individual possessed those images. So I do not believe
12 that that argument offers support for the State's position.

13 Furthermore, Your Honor, even if Your Honor thinks
14 that the testimony that's been proffered today falls within
15 the case law, I'd ask that you exclude it because its
16 probative value is far outweighed by the danger of
17 prejudice in this particular case.

18 THE COURT: Thank you. Thank you, Ms. Fullwood.

19 MS. FULLWOOD: And -- and I have some limine
20 motions that I would like to take up later based on some of
21 the testimony that I heard in this hearing.

22 THE COURT: All right.

23 MS. MAYES: And we would not be offering -- just to
24 clarify, we would not be offering testimony about the
25 little girl, Summer, and the incident in Texas. That was

1 for purposes of the hearing. Ultimately, I do anticipate,
2 whether the State brings it out or Ms. Fullwood brings it
3 out that the child will be questioned about the fact that
4 the DSS worker visited the home and she denied the
5 allegations. But we would not go into the fact that her
6 friend, Summer -- had made a report and as a result
7 authorities in Texas were investigating the defendant.

8 THE COURT: All right. Thank you. Thank you very
9 much, Solicitor.

10 In looking at 404(b), other crimes, wrongs, or
11 acts, evidence of other crimes, wrongs, or acts are not
12 admissible to prove the character of the person in order to
13 show actions in conformity therewith. It may, however, be
14 admissible to show motive, identity, existence of a common
15 plan and scheme, and the actions that the State referenced.
16 And, of course, the case law is clear that it must be clear
17 and convincing testimony. I find this testimony is clear
18 and convincing.

19 The next issue is whether or not it is -- whether
20 or not addressing Ms. Fullwood's argument of the types of
21 actions in the different areas, Kentucky, Texas, South
22 Carolina, touching, slash, the gun. It is not the same
23 type of activity. However, I find that although there may
24 have not been intercourse in Kentucky; although it may have
25 been more dramatic in South Carolina, it all involved

1 sexual conduct between the same defendant and the victim.
2 As I understand the testimony, always in the same location,
3 i.e. either the home of Miss Minor when the defendant was
4 living there as her mother's boyfriend or the home of Miss
5 Minor when her mother and the defendant were married.
6 The testimony was consistent in that regard; generally
7 consistent in the times in which it happened.

8 So I see it more that it adds to its credibility
9 because it's escalated in the -- both the intensity and the
10 depravity of the allegations that have occurred. In
11 looking at the analysis of that although prior bad act
12 evidence is clear and convincing and falls within an
13 exception, which I think it does, common plan and scheme,
14 it must be excluded if its probative value is substantially
15 outweighed by the danger of unfair prejudice to the
16 defendant.

17 I think all evidence, if it's relevant and offered
18 by the State, it should be -- by it's nature, it's
19 prejudicial to a defendant or it's not relevant. It's a
20 question of whether or not it's unfair prejudice. Looking
21 at this evidence in it's totality, both the victim's
22 testimony, the details of the act, the commonality of
23 locations and such, the corroboration from the testimony by
24 the photographic evidence, I find that it is admissible.

25 All right. Ms. Fullwood, did you have a motion in.

1 limine on an evidentiary matter?

2 MS. FULLWOOD: Yes, sir, I have several, actually.

3 THE COURT: Okay. All right.

4 Are you through with your motions, Solicitor?

5 MS. MAYES: Yes, sir, Your Honor.

6 THE COURT: All right. I'll be glad to hear from

7 -- let's take about a ten minute recess.

8 (A brief recess was observed.)

9 THE COURT: All right. Ms. Fullwood, I believe we
10 were taking up your motions in limine?

11 MS. FULLWOOD: Yes, sir.

12 THE COURT: All right.

13 MS. FULLWOOD: Is Your Honor ready?

14 THE COURT: Yes, ma'am.

15 MS. FULLWOOD: Okay.

16 THE COURT: Thank you.

17 MS. FULLWOOD: First of all, I noticed that when we
18 were having the in-camera hearing about the other bad acts,
19 when Ms. Mayes handled that computer, she was using some
20 kind of cloth to hold it with and to -- that sort of
21 implies that something my client possessed is toxic or
22 disease laden or something of that nature and I think
23 that's unduly prejudicial. So I'd ask you to direct the
24 State and its witnesses to handle that sort of evidence in
25 an ordinary matter. It's not like it's a piece of --

1 something that has blood on it or that's been in a sewer or
2 something like that. I -- you know, it's just been sitting
3 in the evidence room and as far as I know not a hazmat bag,
4 so I think that's just uncalled for.

5 THE COURT: Solicitor?

6 MS. MAYES: I would prefer to wear gloves, Your
7 Honor to handle the evidence -- any evidence, actually,
8 that comes from a source that we didn't generate. Any
9 additional evidence in this case. I believe there's also a
10 bag and that may be the extent of it.

11 THE COURT: Ms. Fullwood, would you care for me to
12 advise the jury that it is typical in criminal court
13 settings for attorneys to use gloves to handle items of
14 evidence? I -- there was a time in my career that I would
15 put on bloody clothes. I wouldn't do it now. I quit in
16 the mid 90's. I don't think there's any hidden agenda
17 there. Whether or not I think you thought there was a
18 hidden agenda by the State, but I don't want to dictate,
19 necessarily, how the solicitor handles evidence,
20 particularly given there's nothing more important than our
21 health.

22 I don't mind telling the jury something very
23 general. I just -- I don't want to order the solicitor not
24 to -- not to handle the evidence in the manner in which she
25 thinks is appropriate. As I -- as I track the testimony,

1 is this correct -- Mr. Boatwright was in jail when it was
2 recovered?

3 MS. FULLWOOD: That's correct.

4 THE COURT: And I'm not, obviously not familiar
5 with the locations or the location from which it was
6 recovered or who may have possessed it during the period of
7 time in which it -- assuming -- not assuming -- if it were
8 the defendant's and it was recovered after the defendant
9 was incarcerated, neither the defendant nor anyone else
10 would necessarily know what circumstances existed with the
11 item for that period of time.

12 Can you put it in some type of clear plastic
13 container, Solicitor?

14 MS. MAYES: I believe we could do so, Your Honor.

15 THE COURT: Would you prefer that?

16 MS. FULLWOOD: That would be preferable, yes, sir.

17 THE COURT: All right. I mean, like I say, I'm --
18 I'm not going to dictate to my attorneys necessarily how
19 they would choose to handle evidence with their own safety
20 concerns. I don't know if they should or shouldn't be. I
21 don't make any value judgment on that.

22 See if you can work something out on that,
23 Solicitor.

24 MS. MAYES: I believe we could probably have
25 evidence bring over a clear plastic bag that you could see

1 through.

2 THE COURT: All right.

3 MS. FULLWOOD: That would suit us.

4 THE COURT: And that way it would appear as though
5 it was controlled by the evidence custodian. All right.

6 All right. Thank you, Ms. Fullwood. Next?

7 MS. FULLWOOD: Next is I would ask the Court to
8 make an in limine determination as to whether the Court
9 will admit all of these pictures that have been put in
10 evidence during this bad acts hearing and make the
11 determination as to whether all the pictures of the
12 commercial pornography the State tells me it intends to put
13 into evidence during the trial of its case in chief. I
14 want the Court to make a determination as to whether these
15 picture's probative value is outweighed by their
16 prejudicial effect.

17 And I know he's charged with sexual exploitation of
18 a minor. Obviously some of this stuff they're entitled to
19 get in, but I've seen all of these pictures and I was told
20 that there were others that they might be putting in, or
21 will put in for the commercial pornography and I would ask
22 the Court at this time to conduct that balancing test.

23 THE COURT: Well, I --

24 MS. FULLWOOD: At least prior to the taking of the
25 testimony that would put them in evidence.

1 THE COURT: Well, I think I'm going to make a
2 reverse motion in limine. I did not -- I looked at the
3 photographs; however, I did not look at each and every one,
4 nor did I remove the yellow Post-it tags that were covering
5 -- that were covering parts of the photographs.

6 Solicitor, do you intend to offer all of these
7 photographs or are there some that are cumulative or -- and
8 if you are -- I mean -- not that I object looking at them
9 all, but if --

10 MS. MAYES: The ones that were actually offered,
11 Your Honor, and numbered would be ones that we intend to
12 offer. Now, there are numerous other photos of Minor that
13 are similar or were duplicated and saved under different
14 files, so we are not offering all of those, although there
15 will be testimony that there were, for example, over 40
16 images of this child, but these are the images which were
17 found under a particular file.

18 And, Your Honor, we are offering these because they
19 do show the child in that setting and again if identity of
20 the person in question did take the photos and then
21 uploading the photos and possessing the photos. Then the
22 fact that there were multiple of that child in her home
23 environment would be probative. So we're limiting it to
24 what we've actually numbered and there would be testimony
25 about the numerous other duplicates, but we wouldn't be

1 offering those, at least not at this time.

2 THE COURT: When do you think in the presentation
3 of testimony the photographs would be offered?

4 MS. MAYES: They would be identified, Your Honor,
5 through the testimony of Minor and then ultimately
6 published through the testimony of Mike Phipps, the
7 forensic examiner.

8 And, Your Honor, on the separate indictment, which
9 is commercial pornography, that is Indictment -- that is
10 Indictment 2015-GS-32-2250. This deals with a visual
11 representation of a minor engaged in sexual activity, to
12 wit unknown minor females under the age of 18 years. Your
13 Honor, there were well over a hundred of those photographs
14 and they included movies. Because of the cumulative nature
15 and to avoid any argument of prejudicial effect, what we
16 asked for the examiner, detectives, to do is select five;
17 five photographs of what we believe to be a hundred or more
18 and of those five photographs, select one to where it's
19 obviously a child to a casual observer.

20 So that would prevent us having to argue about
21 whether or not that child could possibly be an adult and
22 just appears to be underage. So what we did was he
23 selected five photographs of prepubescent children where it
24 wouldn't be contested or challenged that these are, in
25 fact, children and we selected these five. We did provide

1 Ms. Fullwood a disk with the data for those images, but
2 these are the actual images and these are the ones that
3 would be offered through the testimony of Detective Phipps.

4 THE COURT: All right.

5 MS. MAYES: And the sexual activity, Your Honor, is
6 an element of that particular statute, so it has to be an
7 image that depicts some type of sexual activity as opposed
8 to a child standing nude.

9 THE COURT: All right. I'll review them, Ms.
10 Fullwood.

11 MS. MAYES: Your Honor, at this time, we'll pass
12 these up as a Court's Exhibit. And these would be the five
13 images selected by Detective Phipps.

14 (Court's Exhibit Number 1 was marked for
15 Identification.)

16 THE COURT REPORTER: That is Court's 1, Your Honor.

17 THE COURT: Thank you.

18 Are there any you don't have objections to, Ms.
19 Fullwood? Subject to, of course, your Lyle objection, are
20 there any that you have specific -- that you do not have a
21 specific 403 objection to.

22 MS. FULLWOOD: Of the commercial pictures?

23 THE COURT: Of any of these. If there 's not, the
24 answer is no.

25 MS. FULLWOOD: May I --

1 THE COURT: If I have to look at them, I'm going to
2 look at them, but if there's some I don't have to look at,
3 I'm not going to look at them for purposes of the motion.

4 MS. FULLWOOD: I feel like I'm in a posture where I
5 need to object to all of them. Not on other basis but
6 being unduly prejudice.

7 THE COURT: All right. I'll review them.
8 You have any other motions?

9 MS. FULLWOOD: No, sir, just -- I don't think this
10 will take very long. It's also my understanding that the
11 State intends to try to put in evidence, a picture of
12 Mr. Boatwright's penis. Now --

13 MS. MAYES: No.

14 MS. FULLWOOD: No? She tells me now that she does
15 not, so that's not an issue.

16 MS. MAYES: There may be -- if ownership of the
17 computer is an issue and remains an issue, there may be
18 testimony from the examiner to that regard, but we're not
19 offering that photograph.

20 THE COURT: All right.

21 MS. FULLWOOD: And I have a couple of objections to
22 search warrants that were issued in the case. I'm sorry,
23 can you hear me?

24 THE COURT: Yes, ma'am, I can hear you.

25 MS. FULLWOOD: Okay. I have some objections to

1 some search warrants that were issued in this case. The
2 first search warrant was issued on December 17th, 2013 and
3 return was not made until December 30th, 2015. That is
4 outside of the 10 day period and pose on the issuance of
5 execution of state court -- State search warrants under
6 Section 17-13-140 of the code.

7 So for that reason, since the execution and return
8 of the search warrant did not occur within the time limits
9 imposed by state law, I'd move to exclude from evidence,
10 suppress from evidence any and all testimony or images of
11 anything found on the Dell computer that is already here in
12 the courtroom and Your Honor saw during the in-camera
13 hearing.

14 THE COURT: All right. May I see a copy of the
15 search warrant, please?

16 MS. FULLWOOD: Yes, sir.

17 MS. MAYES: We have one, Your Honor, for you.

18 MS. FULLWOOD: I've got one too.

19 THE COURT: All right. And the 15 -- the date of
20 2015 is on the return? Is that right?

21 MS. FULLWOOD: Sir?

22 THE COURT: The date 12 /30/15 is on the return? I
23 wasn't tracking where you said that date was at.

24 MS. FULLWOOD: If I can approach, I can show you,
25 Your Honor.

1 THE COURT: All right.

2 MS. FULLWOOD: It would be -- if I said -- 13, not
3 15.

4 THE COURT: You said it was issued 12/17/13.

5 MS. FULLWOOD: Yes. And then --

6 THE COURT: And returned, I thought, 12/30/15.

7 MS. FULLWOOD: I misspoke if I said -- it's return
8 12/30/13.

9 THE COURT: I must have written that down wrong.
10 So you're talking about 13 days instead of 10?

11 MS. FULLWOOD: Yes, sir.

12 THE COURT: All right. I thought there was a case
13 that made that ministerial. Solicitor, I'll be glad to
14 hear from you.

15 MS. MAYES: Yes, Your Honor, that is State versus
16 Weaver. We are prepared to offer Detective Barr on this
17 matter, Your Honor.

18 THE COURT: May I see /W*EFR?

19 MS. MAYES: Yes, sir.

20 THE COURT: Are the dates correct?

21 MS. MAYES: Your Honor --

22 THE COURT: The 17th and the 30th?

23 MS. MAYES: Your Honor, Detective Barr actually
24 drafted the search warrant on the 17th, but it was obtained
25 on the 18th by Judge -- it was signed on the 18th by Judge

1 Myers. So that would be an incorrect date where it
2 references 12/17/13. It should actually be 12/18/13. And
3 the signature on the face of the warrant as it's signed
4 with the initials ALM would be the signature of Judge Myers
5 and --

6 THE COURT: That's on the affidavit then at the
7 bottom left, sworn and subscribed before me the 18th day of
8 December, 2013.

9 MS. MAYES: Yes, sir, Your Honor.

10 THE COURT: All right.

11 MS. MAYES: That was the date that it was actually
12 obtained by Detective Barr. Detective Barr then delivered
13 a search warrant to Detective Phipps who was the forensic
14 examiner which would complete the execution on her end and
15 that was done the same day or the next day. And Your
16 Honor, it was on the 30th that Detective Phipps actually --
17 December 30th, that Detective Phipps actually filed a
18 return stating that due to the exhaustive amount of
19 information that is contained on the computer and the
20 forensic analysis process that the results would be
21 maintained by law enforcement once they were completely --
22 once it was completed. And this certainly is not the type
23 of examination that can be completed within the 10 days.

24 In fact, the testimony in this case will be that
25 these images in many of these files were encrypted. So it

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 took some consultation between Detective Phipps and secret
2 service to actually decrypt these images and it was a
3 substantial amount of time before he actually retrieved and
4 recovered all of the data from that computer.

5 Your Honor, staleness would not be an issue here
6 like it would in a case such as a drug case where the drugs
7 could be sold or ingested. Here the computer was actually
8 in the possession of law enforcement in a secure
9 environment.

10 This was also over the course of the Christmas
11 holidays, Christmas Eve, and Christmas Day.

12 THE COURT: All right. Solicitor, you may call
13 your witness.

14 MS. MAYES: The State calls Detective Traci Barr.

15 THE CLERK: Still under oath, Your Honor?

16 THE COURT: Yes. Thank you.

17 All right.

18 **DIRECT EXAMINATION IN CAMERA**

19 **BY MS. MAYES:**

20 Q Detective Barr, you previously provided your
21 background information for the Court. Can you tell us
22 whether or not you were involved in obtaining a search
23 warrant to ultimately search the computer that you
24 previously testified was turned over to law enforcement in
25 this case?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A I was, through further investigation of that
2 December 2013 case. I met with Judge Myers on December
3 18th and presented the facts on this case and obtained a
4 search warrant for a Dell Inspiron laptop.

5 Q Now, through your training with the Internet Crimes
6 Against Children Task Force, are images on a computer
7 recoverable?

8 A They are.

9 Q Can you tell us whether or not the Lexington County
10 Sheriff's Department has the capability to recover images
11 even after they've been deleted with certain forensic
12 software?

13 A We do. Investigator Phipps is trained in obtaining
14 -- when he does a forensics examination, he can obtain some
15 deleted images, if not most on digital devices such as cell
16 phones, laptops.

17 Q From a computer hard drive?

18 A Correct. Yes.

19 Q And in this particular case, from the time you got
20 the search warrant until its ultimate execution and the
21 recovery process was performed or examination was performed
22 by Detective Phipps, was the computer in the possession of
23 law enforcement?

24 A It was. It was secured in the evidence at
25 Lexington County Sheriff's Department.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q And again, what date did the computer come into the
2 possession of law enforcement?

3 A December 10th 2013.

4 Q All right. Now, the face of your warrant, the
5 search warrant is dated December 17th, 2013 and it has your
6 name on it. What date was it actually signed or obtained
7 from the magistrate?

8 A That date was December 18th, 2013 at 3:45 p.m.

9 Q And who was that magistrate?

10 A It was Judge Myers.

11 Q And what is your -- what can you tell us about when
12 the search warrant was delivered to Detective Phipps by you
13 for execution?

14 A My common practice on these cases, these types of
15 investigations, is I make contact with Investigator Phipps
16 prior to. I mention that I do need to execute a search
17 warrant and during that time, my common practice is once I
18 obtain that original search warrant, I hand deliver it to
19 Investigator Phipps who then goes and retrieves the
20 evidence from our sheriff's department and its custodian
21 and conducts his forensic investigation.

22 Q To your knowledge, was it handed or provided to
23 Detective Phipps within the first 10 days --

24 A I believe it was, yes.

25 Q -- of obtaining the signature of Judge Myers?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A Yes.

2 Q And then on the final page, on the return to this
3 search warrant, what is the date on that return?

4 A This return is for December 30th, 2013. And it's
5 -- the executing officer is Phipps signature at the bottom.

6 THE COURT: And who is that?

7 THE WITNESS: Investigator Mike Phipps of the
8 Lexington County Sheriff's Department.

9 BY MS. MAYES:

10 Q And can you tell us whether or not he is the
11 forensic examiner of such evidence in a case like this?

12 A He is.

13 Q Now, based upon your training with the Internet
14 Crimes Against Children, are such returns and the actual
15 full extraction of a computer generated in a 10 day period?

16 A That's highly impossible due to the nature of the
17 volume of the images that are often recovered during a
18 preview. And I believe in this case, if I remember
19 correctly, Phipps found thousands of encrypted images on
20 that laptop of a sexual nature believed to be child porn
21 during his preview.

22 Q Is there any standard practice among law
23 enforcement officers who deal with the forensic examination
24 of computers about how to handle a return knowing that you
25 can't generate the results within a 10 day period of --

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 MS. FULLWOOD: Objection, Your Honor. Unless she
2 is --

3 MS. MAYES: I can rephrase that.

4 MS. FULLWOOD: -- an officer who handles the
5 returns for computers the testimony is a different --

6 THE COURT: Rephrase your question, Solicitor.

7 MS. MAYES: Yes, sir, Your Honor.

8 BY MS. MAYES:

9 Q Detective Barr, have you been involved in specific
10 training and practice in a case such as this where it takes
11 longer than 10 days to retrieve the results of a computer
12 forensic examination?

13 A Yes, and that's why my -- my common practice is --
14 based on my training and experience, is due to the
15 exhaustive amount of information that may be stored -- and
16 I can further read that if you'd like.

17 Q If you could please read into the record what is
18 stated in the return.

19 A Sure. It says the following is an inventory of
20 property taken pursuant to the warrant. Due to exhaustive
21 amount of information that may be stored in the device
22 seized and the necessary amount of time required to
23 complete the search of the device, the result -- the result
24 of any forensic analysis will be maintained by law
25 enforcement for any subsequent legal proceedings.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q All right. And can you tell us whether or not this
2 language has been used in the past on search warrants with
3 the Lexington County Sheriff's Department dealing with
4 forensic examination of computers?

5 A Yes, it's a common practice.

6 Q And can you tell us whether or not that is
7 consistent with your training and experience in this field?

8 A Yes, it is.

9 Q And specifically what agency or agencies have
10 provided training to you specific to that type of response
11 when it takes longer to generate the results?

12 A There are various courses I've taken over the past
13 several years; federal and state training, specifically the
14 ODJTP, Office of Juvenile Justice and then also the federal
15 training I've had at the National Center for Missing and
16 Exploited Children. But specifically geared towards
17 answering your question, this is something that the
18 Internet Crimes Against Children Task Force often do
19 because of the exhaustive nature of that return and the
20 amount of information that's developed once that item's
21 secured in evidence.

22 Q Can you tell us whether or not that includes
23 training from the State Law Enforcement Division?

24 A Correct, yes.

25 Q Have you consulted with them in the past on such

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

1 matters?

2 A Yes.

3 Q To your knowledge, Detective Barr, did it take
4 longer than 10 days or longer than 12 days to generate a
5 full forensic examination of the Dell Inspiron laptop in
6 this case?

7 A Yes.

8 Q And ultimately were the results of this analysis
9 maintained as evidence in the case?

10 A Yes, they were.

11 Q Based on a CD?

12 A Correct.

13 Q Were on a forensic hard drive copy?

14 A Yes. And placed into evidence, from my
15 understanding by Investigator Phipps.

16 Q And still in evidence today?

17 A Correct, yes.

18 MS. MAYES: Nothing further, Your Honor.

19 THE COURT: Ms. Fullwood?

20 MS. FULLWOOD: Thank you.

21 CROSS-EXAMINATION IN-CAMERA

22 BY MS. FULLWOOD:

23 Q Detective Barr, why did you wait 8 days before you
24 got the search warrant?

25 A Why did I wait 8 days?

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

1 Q Didn't you get the computer on the 10th?

2 A I got the computer -- I got the incident report
3 assigned to me on the 13th of December, 2013. And through
4 that time, along with other investigations that I was
5 conducting at this time it was secured in evidence and so
6 then I gathered and drafted the search warrant on the 17th
7 and presented it on the 18th.

8 Q Okay. Well, someone from the sheriff's department
9 talked to Crider and McDaniel on the 10th; isn't that
10 right?

11 A Yes, that was Deputy Barrett.

12 Q And did Barrett take possession of the computer at
13 that time?

14 A From my understanding he did. He placed it into
15 evidence.

16 Q And then you got it on the 13th?

17 A Correct. Well, it was still secured in evidence.
18 I got the case on the 13th.

19 Q You got the case?

20 A Yeah.

21 Q In other words, you had cause to work with the
22 computer?

23 A Correct.

24 Q All right. You --

25 A The 11th, 10th, I'm sorry.

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

1 Q Okay. You swore out a warrant on the 18th, right?

2 A Yes, ma'am.

3 Q The same day you gave it to Phipps?

4 A Yes, ma'am.

5 Q Now, did you take any steps to see if Phipps was
6 getting this work done during the 10 day period?

7 A My common practice and with this being the
8 holidays, I don't specifically remember that conversation,
9 but my common practice with him is I speak with him prior
10 to obtaining the search warrant to verify whether or not he
11 will be available during that time and then I go ahead and
12 immediately -- once I obtain that search warrant, I turn it
13 over to him.

14 Q Okay. And Phipps didn't do his preview until the
15 30th, did he?

16 A I'm not certain. I'd have to review back in my
17 supplementals.

18 Q Do you have them up there with you?

19 A If you can give me just one second, I can look.

20 (There was a pause in the proceedings.)

21 THE WITNESS: This examination took a lengthy time
22 frame for Investigator Phipps from my understanding. I do
23 have it entered that on March 19th, 2014, according to
24 Investigator Phipps through his forensic examination that
25 My Documents, My Files were thousands of encrypted file

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

1 folders located which were suspicious in nature and those
2 images were named Minor Naked Pics. And I could read the
3 rest if you'd like.

4 Q Okay. So he did his preview probably in March?

5 A I'm not certain.

6 Q You don't know?

7 A I'm not certain.

8 Q Okay. If you don't know, you don't know. That's
9 fine.

10 A I just know that through that time frame, once I
11 spoke with him about that search warrant during that time
12 we did a preview and then he said, yes, there is going to
13 be something suspicious on there.

14 Q So he did a preview before you got the search
15 warrant?

16 A No, ma'am.

17 Q All right.

18 A No, no, no, ma'am. I'm just saying as a course of
19 that search warrant, then he let me know prior to turning
20 in that return that there's going to be more items.

21 Q But you're not sure of the dates?

22 A Correct.

23 MS. FULLWOOD: No further questions.

24 THE COURT: Redirect, Solicitor?

25 MS. MAYES: Yes, sir, Your Honor.

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

REDIRECT EXAMINATION IN-CAMERA

1
2 BY MS. MAYES:

3 Q Detective Barr, based on training and experience,
4 would it take -- would you know already from the outset
5 that it may take longer than 10 days to generate these
6 results?

7 A Yes. And because of that, based on our training
8 and experience, it is our nature that -- it is our
9 experience that when forensic examinations occur, because
10 of those thousands of images, you have to verify whether or
11 not they meet the criteria for criminal -- to violate the
12 criminal statute.

13 Q Right. But the actual recovery of the images, the
14 process of the analysis --

15 A It takes --

16 Q -- can you tell us whether or not that is known
17 from the very beginning when the search warrant is first
18 handed over that it may take longer than 10 days?

19 A You can't know that from the onset, from the
20 beginning of that. You won't know until the exact full
21 examination of the forensic examination is down because of
22 those encrypted items and coming into the fact that you
23 have hidden folders in certain investigations. That
24 forensic examination comes across encrypted files which are
25 lengthy and they take time to retrieve those images from

1 those encrypted files.

2 Q All right. And based upon the language that was
3 used on the return in this search warrant, can you tell us
4 whether or not that is standard practice in the field?

5 A Yes.

6 MS. MAYES: Nothing further.

7 THE COURT: Ms. Fullwood?

8 MS. FULLWOOD: No further questions.

9 THE COURT: Thank you. Thank you, Detective Barr.
10 Any other witnesses, Solicitor?

11 MS. MAYES: Not on this issue, Your Honor.

12 THE COURT: Ms. Fullwood?

13 MS. FULLWOOD: No, Your Honor.

14 THE COURT: All right. I'll be glad to hear from
15 you, Ms. Fullwood.

16 MS. FULLWOOD: Well, again, even though doing a
17 detailed forensic computer extraction or analysis or
18 whatever you want to call it may take time, it doesn't
19 appear they did anything to ascertain whether or not this
20 computer contained what was sought out in the warrant with
21 -- within any period up until maybe in March, whether it be
22 the 30th -- but in any event, it's outside the 10 day time
23 period and so for that reason, we would ask for any results
24 of forensic computer exams to be suppressed.

25 THE COURT: All right.

1 MS. FULLWOOD: Fruit of the poisonous tree.

2 THE COURT: Thank you.

3 Solicitor?

4 MS. MAYES: Yes, sir, Your Honor, it is outside of
5 the 10 day time period. We acknowledge that. However, due
6 to the fact that it did require a forensic examination of a
7 computer and recovery of a tremendous amount of data images
8 and things of that nature, it is common practice as has
9 been testified to, to file a return acknowledging that the
10 results will be made available when the examination is
11 complete and this is most commonly observed that it is
12 going to take longer than that 10 day period because of the
13 amount of data involved.

14 Your Honor, under the State versus Weaver case that
15 the State provided, it is considered a ministerial
16 requirement. However, the fact that the State did not
17 comply with the ministerial requirement does not in and of
18 itself invalidate the search warrant or the results of that
19 search. Certainly here it's over the Christmas holidays
20 and due to the amount of data recovered, it's highly
21 improbable that it could have been complied with within the
22 10 days if done correctly; and as a result, Your Honor,
23 there is no prejudice to the defendant.

24 The results are the same for the defendant whether
25 they were recovered -- whether the images were recovered

1 within the first 10 days and the return filed within the
2 first 10 days or as it happened, that it took longer than
3 10 days and was filed later than 10 days, it was still
4 evidence that ultimately was recovered regardless of the
5 time frame and it was going to be recovered by law
6 enforcement eventually due to their technology.

7 THE COURT: Thank you.

8 Anything in response, Ms. Fullwood?

9 MS. FULLWOOD: No, Your Honor.

10 THE COURT: All right. I'm focused on the issue
11 before the Court that the return was filed out of time,
12 this it was filed 2 days later than it should have been
13 filed. I care nothing about the type of search that may be
14 conducted. I care nothing about what time of the year it
15 was or holidays. I'm not aware that crime takes a holiday,
16 nor forensic people take a holiday. I could careless and
17 they shouldn't. All I care about is 48 hours and the time
18 frame is ministerial. There's no prejudice to the
19 defendant. It is admissible.

20 All right. Ms. Fullwood, any other -- any other
21 motions?

22 MS. FULLWOOD: One more, Your Honor.

23 THE COURT: All right. Thank you. Of course.

24 MS. FULLWOOD: And this concerns a search warrant
25 dated August 1, 2015.

1 THE COURT: All right.

2 MS. FULLWOOD: The property sought in that search
3 warrant was any and all original papers, notes inmate
4 requests and/or signed documents from or by Richard
5 Boatwright, DOB [REDACTED]/67 while housed in the Lexington
6 County Detention Center. This also is to exclude any
7 privileged information such as attorney/client
8 correspondence. The affidavit reads on or about 2/1/12
9 through 12/10/13, Richard Lee Boatwright, while in
10 Lexington County did commit the offense of third degree
11 sexual exploitation of a minor in that he did unlawfully
12 and while knowing the character or content of the material,
13 possess material that contained a visual representation of
14 a minor engaging in sexual activity, to wit, photographs
15 and/or digital images of a minor child DOB [REDACTED]/2000,
16 engaged in sexual activity. On 6/27/13, Boatwright was
17 arrested and housed at the Lexington County Detention
18 Center. During that time Amanda Crider received
19 handwritten letters from Richard L. Boatwright releasing
20 his personal items to her.

21 Law enforcement is seeking this search warrant to
22 further investigate and corroborate Boatwright's
23 involvement with the sexual exploitation of one minor
24 child, Minor , DOB [REDACTED]/2000 by obtaining personally
25 signed documents by him for a handwriting analysis.

1 It's our position that this affidavit is -- does
2 not sufficiently set forth probable cause. It merely
3 contains conclusory statements about the fact that
4 basically repeating the language of the warrants with the
5 time of arrest. It represents the fact that one, Amanda
6 Crider, received letters from him. It does not explain why
7 they are relevant to this case or any -- either of the
8 cases that we're litigating this week and it's -- it's very
9 broad and it's just seeking to further corroborate his
10 involvement without saying why they believe that the
11 handwriting materials would -- would lead to additional
12 evidence.

13 And I would point out that while the affidavit
14 discusses the -- the letters supposedly received by Crider,
15 in fact, the State went on to use these materials not only
16 to do a handwritten analysis on those materials, but also
17 on materials it received from Crider's father Mark McDaniel
18 which they already had between when they got this warrant.
19 It doesn't reference that. And for that reason, we are
20 moving to suppress testimony concerning any handwriting
21 analysis as fruit of the poisonous tree since this material
22 was obtained pursuant to a warrant that does not
23 sufficiently lay out probable cause. And I'm glad to hand
24 up a copy of the warrant to the Court.

25 THE COURT: Thank you. Thank you, Ms. Fullwood.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 All right. Solicitor?

2 MS. MAYES: Yes, sir, Your Honor, the State would
3 call Detective Traci Barr.

4 THE COURT: All right.

5 **DIRECT EXAMINATION IN-CAMERA**

6 BY MS. MAYES:

7 Q Detective Barr, do you have with you a copy of the
8 search warrant which was conducted for handwriting samples
9 from the cell of Richard Boatwright?

10 A Yes.

11 THE COURT: Now, I don't have that search warrant.

12 MS. MAYES: Yes, sir, Your Honor. I can pass it up
13 right now.

14 THE COURT: Maybe I do have that search warrant.
15 But this -- the search warrant -- this search warrant, and
16 maybe it's just semantics, is for papers and documents.

17 MS. MAYES: That's correct, Your Honor.

18 THE COURT: Handwriting, so you wanted them for
19 handwriting samples?

20 MS. MAYES: Yes, sir, Your Honor.

21 THE COURT: All right.

22 BY MS. MAYES:

23 Q Detective Barr, the search warrant that is
24 currently before the Court is dated August 1st 2015. It
25 was obtained by you on what date and at what time?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A At 9:36 on July 31st 2015, I presented this -- the
2 facts on this case to Judge Reinhardt and obtained a search
3 warrant.

4 Q Okay. And this search warrant was specifically for
5 what? Would you please refer to the description of the
6 property sought and, again, if you could please read very
7 slowly for the sake of the court reporter.

8 A Sure. The property sought is any and all original
9 papers, notes, inmate requests, and/or signed documents
10 from or by Richard Boatwright, date of birth [REDACTED] of '67
11 while housed in Lexington County Detention Center. This is
12 also to exclude any privileged information such as
13 attorney/client correspondence.

14 Q All right. And in general, those -- this paperwork
15 or personal notes were being sought for what purpose?

16 A As stated before, when I began my investigation
17 December 2013, I had prior knowledge of a victim named Minor
18 that had been involved in the case with Richard
19 Boatwright that Detective Stoner had investigated. During
20 that time we knew that Richard Boatwright and Mark McDaniel
21 had been cellmates together at the detention center at
22 Lexington County.

23 It's a common practice for inmates to have a pencil
24 and paper and write notes and letters and correspondence to
25 other people, so through further investigation, I felt that

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 after consulting with the solicitor's office and other
2 investigators that we could do a search warrant for
3 handwritten known samples written by Richard Boatwright
4 because of the fact that when I presented the facts of this
5 case to Judge Reinhardt, I gave him background testimony,
6 oral testimony on the 2013 investigation with Detective
7 Stoner, correcting the letter that Mark McDaniel sent to
8 Detective Stoner signed by Richard Boatwright and also a
9 letter of items signed by Richard Boatwright giving a
10 laptop computer, a Dell Inspiron to Amanda Crider which
11 ultimately ended up in law enforcement's evidence.

12 Q Can you tell us whether or not for purposes of your
13 investigation it was significant to link Mr. Boatwright to
14 those writings?

15 A Yes, it was.

16 Q Including the release of the computer?

17 A Yes.

18 Q And the letter that you mentioned involving Minor

19 ? Who had that letter been turned over to?

20 A Detective Stoner initially got that letter prior to
21 my involvement.

22 Q And that letter allegedly was written by whom?

23 A Richard Boatwright.

24 Q And provided to?

25 A Detective Stoner.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q Okay. Was there --

2 A And Mark McDaniel.

3 Q Mark McDaniel, a cellmate, I believe you identified
4 him as?

5 A Yes, correct.

6 Q And he turned that over to who?

7 A Detective Stoner.

8 Q And can you tell us whether or not that letter or
9 those writings made mention of actually having intercourse
10 or sexual relations with Minor ?

11 A Yes, they do.

12 Q Now, you mentioned that when you saw Judge
13 Reinhardt, you provided some background information. Let's
14 start with the actual probable cause that is set forth in
15 the warrant, the reason for affiant's belief that the
16 property sought would be on the premises. If you could
17 tell us what and how you provided additional information in
18 that regard beyond what's contained here in the probable
19 cause?

20 A Yes. Well, based on my training and experience and
21 involvement with these internet crimes against computer
22 cases, it is often found that victims of child pornography
23 are later identified in additional investigations. I knew
24 from Detective Stoner's investigation listing Minor
25 as a victim and those images that were -- excuse me. The

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 disclosure that Minor made in a multi jurisdictional
2 investigation could potentially corroborate the facts in my
3 search for this search warrant. The reason is that I
4 needed to know if Boatwright had any access to Minor. I
5 knew that the item -- the computer -- was listed under that
6 list of items signed by Richard Boatwright that was given
7 to Amanda Crider.

8 I did know that Minor had disclosed multi
9 jurisdictional incidents and based on the fact that Mark
10 McDaniel obtained the letter from Richard Boatwright, it
11 linked him to Minor and this identification of these letters
12 was very critical to verify that he signed and wrote that
13 letter.

14 Q All right. So can you tell us whether or not the
15 information contained in the probable cause which mentioned
16 digital images, can you tell us whether or not the Court
17 was informed that involved a computer?

18 A Yes, when Detective Phipps conducted a forensic
19 examination, he found an image of a nude child which was
20 later identified as Minor by her mother.

21 Q And you knew that prior to obtaining this search
22 warrant?

23 A Yes, I did.

24 Q Was that part of the background information that
25 would have been shared?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A Yes.

2 Q Now, specifically, in addition to advising about a
3 computer, can you tell us whether or not -- whether or not
4 it was relayed, the link between the letter that released
5 the personal items and the defendant?

6 A Yes. That signature of Richard Boatwright on that
7 letter.

8 Q And ultimately you wanted these -- this paperwork,
9 the inmate request forms, any notes that may have been
10 written from the defendant's cell for what purpose? To
11 send where?

12 A I had spoken with Agent Gaile Heath with SLED,
13 State Law Enforcement Division, prior to my involvement in
14 the 2013 case there was limited amounts of known samples
15 from Richard Boatwright. I knew that if I executed that
16 search warrant based on those inmate request forms signed
17 by Richard Boatwright those are known samples that could
18 have benefitted or could have helped corroborate that
19 investigation.

20 Q All right. And then the final language about
21 seeking this search warrant to further investigate and
22 corroborate Boatwright's involvement with the sexual
23 exploitation of Minor , can you tell us whether or
24 not knowing if he wrote a letter admitting to having sex
25 with Minor would corroborate the investigation?

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

1 A Yes. And then also that second letter that Amanda
2 Crider possessed signed by Richard Boatwright giving her
3 that laptop was key to matching up those signatures of
4 these known samples to Richard Boatwright and that laptop.

5 Q All right. Now, what is your understanding about
6 where this paperwork is maintained at the detention center
7 among a defendant's belongings?

8 A My knowledge is that inmates, like I stated before,
9 have a pencil and paper that they have readily available to
10 write on and they have a gray tub which is placed by their
11 bedside where they keep personal items in those gray tubs,
12 which is the focal point of my search when I executed the
13 search warrant.

14 Q Can you tell us whether or not obtaining any kind
15 of proof or corroboration that the letters in evidence are
16 written by Boatwright, can you tell us whether or not that
17 would aid investigation?

18 A Yes, it would.

19 MS. MAYES: Nothing, further, Your Honor.

20 THE COURT: Thank you. Thank you, Solicitor.

21 Ms. Fullwood?

22 MS. FULLWOOD: Thank you, Your Honor.

23 **CROSS-EXAMINATION IN-CAMERA**

24 **BY MS. FULLWOOD:**

25 Q You testified you needed to know if Mr. Boatwright

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

1 had had access to Minor; is that right?

2 A Yes.

3 Q Well, you knew he was her stepfather, correct?

4 A Correct.

5 Q So you knew that he had had access?

6 A Correct.

7 Q Okay. So you didn't need the handwriting samples
8 to know that he had access because of the family
9 relationship, right?

10 A I felt it was more important based on that letter
11 that had been given to Detective Stoner to verify whether
12 or not he did have access to her.

13 Q Well --

14 A And to verify that he was the one who wrote that
15 letter, yes.

16 Q Which letter are we talking about? The one to
17 Crider or the McDaniel letters?

18 A My focus was to verify the handwriting samples with
19 the letter of items listing that laptop that was provided
20 to Amanda Crider and also connecting that specific letter
21 to the letter that Detective Stoner had that was originally
22 provided to her by Mark McDaniel.

23 Q Well, the affidavit in the search warrant does not
24 state that the reason you need handwriting samples is to
25 try to link him to that letter which would in turn link him

Traci Barr - Cross-Examination In Camera by Ms. Fullwood

1 to that laptop.

2 A Correct.

3 Q Correct?

4 A Correct.

5 Q It doesn't say that, does it?

6 A Which is why I gave Judge Reinhardt oral testimony
7 to that background information.

8 Q But you prepared that affidavit, correct?

9 A Yes.

10 Q So you certainly could have put that language in
11 there, couldn't you?

12 A I could have.

13 Q Okay. And your affidavit doesn't say anything
14 about the letters McDaniel gave law enforcement, does it?

15 A It doesn't, but if you notice there's only a
16 limited amount of space in these search warrants for us to
17 put detailed information.

18 Q Officer Stoner (verbatim), you have seen affidavits
19 that have been supplemented on a different page if you run
20 over, right?

21 A Yes, ma'am, but it's not a common practice.

22 Q But it is done from time to time, isn't it?

23 A Yes.

24 Q All right. So there's nothing on there that even
25 references the McDaniel's letter, right?

1 A Which is why I put I needed to further investigate
2 and corroborate --

3 Q But you don't say what you need to further
4 investigate and corroborate, do you?

5 A In my oral testimony to Judge Reinhardt.

6 Q Do you have any notes or reports concerning what
7 supplemental testimony you gave Judge Reinhardt?

8 A No, ma'am.

9 MS. FULLWOOD: No further questions.

10 THE COURT: Redirect, Solicitor?

11 MS. MAYES: Yes, sir, Your Honor.

12 **REDIRECT EXAMINATION IN CAMERA**

13 BY MS. MAYES:

14 Q Detective Barr, do you refer to the items recovered
15 from the computer?

16 A Yes.

17 Q Do you refer to the fact that the computer had been
18 released to Amanda Crider in a letter?

19 A Yes.

20 Q Do you refer to the fact that the letter was
21 written, or alledgedly written by Boatwright?

22 A Yes.

23 MS. MAYES: Nothing further.

24 THE COURT: Ms. Fullwood?

25 MS. FULLWOOD: No further questions, Your Honor.

1 THE COURT: Thank you, thank you, Detective Barr.
2 You may step down.

3 All right. Ms. Fullwood?

4 MS. FULLWOOD: Your Honor, I believe I've set forth
5 my entire position at the outset. The affidavit simply
6 does not -- the allegations of the affidavit don't rise to
7 the level of the granting for probable cause and we have
8 nothing that really corroborates what the oral testimony
9 supposedly given all that time ago was. So I'd ask again
10 that Your Honor suppress the fruits of the warrant which
11 are going to be in the form of expert testimony as far as
12 hand analysis and writing analysis.

13 THE COURT: Thank you. Thank you, Ms. Fullwood.
14 Solicitor?

15 MS. MAYES: Yes, sir, Your Honor. The State's
16 position would be that the original written probable cause
17 does state the nature of the charge. It does refer to the
18 digital images and evidence recovered in this case. It
19 does refer to the fact that Mr. Boatwright was currently
20 housed at the detention center and that Amanda Crider had
21 received a letter from him releasing the personal items to
22 her and that the search warrant was needed to corroborate
23 his involvement in that sexual exploitation case.

24 As Detective Barr indicated through her testimony,
25 she did supplement that with background information to the

1 magistrate informing him that it involved a computer and
2 that the -- that the digital images were actually contained
3 on the computer and that the handwritten letter also
4 connected Boatwright to the computer and that that was
5 necessary to link him or corroborate his involvement in the
6 sexual exploitation case.

7 Now, as Ms. Fullwood mentioned that an additional
8 letter was also ultimately compared once those items were
9 seized. Your Honor, I don't think there would be a
10 limitation. Once the evidence is seized pursuant to valid
11 probable cause, I don't believe there would be a limitation
12 on additional suspected handwriting being compared to the
13 results of that search and seizure. It would be similar to
14 a DNA case where a buccal swab is obtained maybe for
15 purposes of comparing to a rape kit that it ultimately,
16 once it's been seized with valid probable cause, then later
17 used to compare with other times of evidence from the crime
18 scene such as blood from a car or blood from carpet.

19 So, Your Honor, in this particular case it was
20 originally -- the writings were obtained for the purpose of
21 comparing to that -- to that letter sent to Amanda Crider
22 and then ultimately used for additional comparison analysis
23 as well once they had been seized and were in the
24 possession of the State Law Enforcement Division.

25 THE COURT: Thank you.

1 MS. MAYES: Your Honor, on the matter of sworn
2 testimony, there is case law to support -- to support an
3 insufficient or arguably insufficient probable cause on the
4 face of the warrant with the sworn testimony. One such
5 case, State versus Jones and that is Southeastern -- I'm
6 sorry, 342 South Carolina 121.

7 THE COURT: Thank you.

8 So as I understand it law enforcement has received
9 two letters from citizens, Crider and McDaniel, correct?

10 MS. MAYES: Yes, sir, Your Honor.

11 THE COURT: During the course of time in which
12 Mr. Boatwright is incarcerated?

13 THE WITNESS: Yes, sir, Your Honor.

14 THE COURT: And law enforcement wants to
15 corroborate that Mr. Boatwright was the author -- that
16 Mr. Boatwright wrote those letters.

17 MS. MAYES: Yes, sir, wrote and/or signed the
18 letters. There is a signature alongside the letters
19 involved.

20 THE COURT: Wrote or signed the letters. And law
21 enforcement, therefore, wants to get documents maintained
22 at the Lexington County Detention Center to compare the
23 handwriting in those to the two letter -- to the two
24 citizen letters.

25 MS. MAYES: Yes, sir, Your Honor.

1 THE COURT: I think the affidavit is -- I think
2 there are conclusory statements in it. However, given the
3 status of the law, oral supplemental testimony is
4 appropriate to provide a magistrate with at the time of the
5 issuance of the warrant. Although not documented as Ms.
6 Fullwood points out, I find the testimony of Detective Barr
7 to be credible based on her training and experience and
8 that she did present sufficient -- that the affidavit is
9 sufficient; however, she did present sufficient
10 supplemental oral testimony which the Court finds credible.

11 Therefore, I would confirm the probable cause in
12 the search warrant as far as the letters being -- the
13 documents that were held by the Lexington County Detention
14 Center.

15 All right. Anything further, Ms. Fullwood?

16 MS. FULLWOOD: Nothing further, Your Honor.

17 THE COURT: Solicitor?

18 MS. MAYES: Nothing from the State, Your Honor.

19 THE COURT: All right. I will -- I'm not going to
20 look at the photographs this evening. I'm going to leave
21 them in the custody of either the Court -- the court
22 reporter. I will look at them properly in the morning
23 before we begin court and I'll look at the medical records
24 this evening.

25 All right. 9:30 in the morning?

1 MS. MAYES: Yes, sir, Your Honor.

2 THE COURT: All right. 9:30. Thank y'all very
3 much.

4 (Court was in recess for the day.)

5 TUESDAY, APRIL 27, 2017

6 GUILTY PLEA

7 THE COURT: All right.

8 THE CLERK: Come around.

9 Indictment 2014-GS-32-01105 State versus Richard
10 Lee Boatwright, indicted for criminal sexual conduct with a
11 minor second degree, pleading as charged.

12 Indictment 2014-GS-32-01316, State versus Richard
13 Lee Boatwright, indicted for criminal sexual conduct with a
14 minor third degree, pleading as charged.

15 Indictment 2015-GS-32-02248, State versus Richard
16 Lee Boatwright, indicted for sexual exploitation of a
17 minor, third degree, pleading as charged.

18 Indictment 2015-GS-32-02250, State versus Richard
19 Lee Boatwright, indicted for sexual exploitation, third
20 degree. Pleading as charged.

21 They're all signed and properly attested to. They
22 are all true billed, represented by Ms. Fullwood and Ms.
23 Mauldin.

24 RICHARD LEE BOATWRIGHT,
25 having been duly sworn, testified as follows:

1 THE COURT: Ms. Fullwood, Ms. Mauldin, y'all
2 represent Richard Lee Boatwright?

3 MS. FULLWOOD: Yes, Your Honor.

4 MS. MAULDIN: Yes, Your Honor.

5 THE COURT: All right. Do you object if I direct
6 my questions solely to Ms. Fullwood and, of course, later
7 on in the plea I will allow both Ms. Fullwood and Ms.
8 Mauldin to address the Court.

9 MS. MAULDIN: No objection, Your Honor.

10 THE COURT: All right. Ms. Fullwood, have you
11 explained to Mr. Boatwright the charges of criminal sexual
12 conduct with a minor, second degree; criminal sexual
13 conduct with a minor third degree; and sexual exploitation
14 of a minor third degree?

15 MS. FULLWOOD: Yes, Your Honor.

16 THE COURT: Additionally have you explained the
17 elements of those charges?

18 MS. FULLWOOD: I have, sir.

19 THE COURT: Have you further explained to him his
20 constitutional rights, including his right to a jury trial?

21 MS. FULLWOOD: I have, Your Honor.

22 THE COURT: In your opinion, does the defendant
23 understand those things?

24 MS. FULLWOOD: Yes, Your Honor.

25 THE COURT: How does he indicate he intends to plea

1 or wishes to plea to criminal sexual conduct with a minor
2 in the second degree?

3 MS. FULLWOOD: Guilty, Your Honor.

4 THE COURT: How does he indicate he intends to plea
5 to criminal sexual conduct -- and I believe I said criminal
6 sexual conduct second -- criminal sexual conduct with a
7 minor in the second degree, how does he intend to plead?

8 MS. FULLWOOD: Guilty, Your Honor.

9 THE COURT: And how does he indicate to you he
10 intends to plea to criminal sexual conduct with a minor in
11 the third degree?

12 MS. FULLWOOD: Guilty, Your Honor.

13 THE COURT: And how does he indicate to you he
14 intends to plea to sexual exploitation of a minor third
15 degree, two separate indictments?

16 MS. FULLWOOD: Guilty, Your Honor.

17 THE COURT: Are you Richard Lee Boatwright.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Mr. Boatwright, before I can accept a
20 guilty plea, it is necessary for me to determine if your
21 pleas are being given freely and voluntarily. Therefore, I
22 need to ask you some questions. If you do not understand
23 my questions, please let me know, I will try to explain
24 them to you. If at any time you wish to talk to one, the
25 other, or both of your attorneys, please let me know. I

1 will allow you to do so. Do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: How old are you, Mr. Boatwright?

4 THE DEFENDANT: Currently 49 years old.

5 THE COURT: How much education do you have?

6 THE DEFENDANT: High school diploma.

7 THE COURT: Prior to incarceration, what type of
8 work did you do?

9 THE DEFENDANT: Professional truck driver.

10 THE COURT: Today are you under the influence of
11 any medication, drugs or alcohol?

12 THE DEFENDANT: No, sir.

13 THE COURT: Are you aware of any physical,
14 emotional, or nervous problem that might keep you from
15 understanding what you're doing today?

16 THE DEFENDANT: No, sir.

17 THE COURT: You heard your attorney, Ms. Fullwood,
18 tell me that she has explained to you the charges against
19 you, that being criminal sexual conduct with a minor second
20 degree, criminal sexual conduct with a minor third degree,
21 and sexual exploitation of a minor third degree, two
22 separate indictments. She further tells me she's explained
23 to you the possible punishments, your constitutional
24 rights, including your right to a jury trial and that you
25 understand those things. Is that correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Tell me, Ms. Fullwood, what is the
3 potential maximum penalty on criminal sexual conduct with a
4 minor second degree?

5 MS. FULLWOOD: 20 years, Your Honor.

6 THE COURT: And on criminal sexual conduct with a
7 minor third degree?

8 MS. FULLWOOD: 15 years, Your Honor.

9 THE COURT: And on the sexual exploitation of a
10 minor third degree?

11 MS. FULLWOOD: 10 years, Your Honor.

12 THE COURT: Thank you.

13 I'm going to review each of these indictments with
14 you, Mr. Boatwright.

15 Indictment 2014-GS-32-01105 reads that you did in
16 Lexington County on or about February 1st, 2012 through
17 August 1st, 2012 willfully and unlawfully commit the
18 offense of criminal sexual conduct with a minor in the
19 second degree by engaging in sexual battery with a minor
20 who was 14 years of age or less, but who was at least 11
21 years of age, to wit sexual intercourse and/or genital
22 intrusion upon Minor , DOB [REDACTED]/2000, in violation of
23 16-3-655(b)1 of the South Carolina Code of Laws.

24 That is an indictment for criminal sexual conduct
25 with a minor in the second degree for which you could

1 receive a sentence of up to 20 years; do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: The next indictment, 2014-GS-32-01316
4 alleges that you did, being of your date of birth [REDACTED]
5 [REDACTED] 1967, a person over 14 years of age, that you did in
6 Lexington County on or about February 1st, 2012 through
7 August 1, 2012 willfully and lewdly commit or attempt to
8 commit a lewd or lascivious act upon or with the body or
9 its parts of a child under 16 years of age with the intent
10 of arousing, appealing to, or gratifying the lusts or
11 passions or sexual desires of himself and/or the child, to
12 wit touching of a sexual nature of a child, Minor
13 date of birth [REDACTED]/2000; furthermore said child was under
14 the age of 14 during the time of these offenses in
15 violation of section 16-3-655(c) as amended.

16 That is a charge of criminal sexual conduct with a
17 minor in the third degree for which you could receive a
18 sentence of up to 15 years; do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: The next indictment, 2015-GS-32-02248
21 alleges that you did, being a person over the age of 18
22 years, in Lexington County on or about February 1st 2012,
23 through December 10th, 2013, commit the offense of third
24 degree sexual exploitation of a minor, unlawfully and while
25 knowing the character or content of the material did

1 possess material that contained a visible -- visual
2 representation of a minor engaging in sexual activity, to
3 wit photographs and/or digital images of a minor child Minor
4 , DOB [REDACTED]/2000, engaged in sexual activities as
5 defined by Section 16-15-375(5).

6 That is a charge of sexual exploitation of a minor
7 for which you could receive a sentence of up to 10 years.
8 Do you understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Indictment 2015-GS-32-02250 alleges
11 that you did, being a person over the age of 18, did in
12 Lexington County on or about February 1st, 2012 through
13 December 10th 2013 commit the offense of third degree
14 sexual exploitation of a minor, unlawfully and while
15 knowing the character and content of the material did
16 possess material that contained visual representation of a
17 minor engaging the sexual activity, to wit photographs
18 and/or digital images of unknown minor females under the
19 age of 18 years engaged in sexual activity as defined by
20 16-15-375(5).

21 That is an indictment for sexual exploitation of a
22 minor for which you could receive a sentence of up to 10
23 years. Do you understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: When you plead guilty, you give up

1 certain very important constitutional rights. First you
2 give up your right to remain silent. That is your right
3 against self-incrimination, your right to say nothing at
4 all. You cannot be compelled to testify or to provide
5 evidence against yourself. Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Second, you give up your right to have
8 a jury trial. That is your right to have a jury decide
9 whether or not you are guilty beyond a reasonable doubt.
10 They would base their decision upon evidence which the
11 State would have to present and on any evidence that you
12 might wish to introduce. In a trial you would be presumed
13 to be innocent and the State would have to produce evidence
14 that would convince all twelve members of the jury that you
15 were guilty beyond a reasonable doubt.

16 And as you know, we have already selected a jury
17 for the trial of this case and they are currently waiting
18 in their jury room to begin the trial. Do you understand
19 that right?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Third, you give up your right to be
22 confronted by the witnesses against you. That is the right
23 to see, hear, and have your attorneys cross-examine any
24 witnesses that may be called against you during the trial
25 and the right to subpoena and call witnesses on your own

1 behalf. Do you understand?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand all these very
4 important constitutional rights that I have explained to
5 you?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand that when you plead
8 guilty you give up these very important constitutional
9 rights.

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Is that what you want to do?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you understand that you will not get
14 a jury trial if you plead guilty?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Understanding then the nature of the
17 charge of criminal sexual conduct with a minor in the
18 second degree and the potential consequences of a sentence
19 of up to 20 years, how do you plea to that charge guilty or
20 not guilty?

21 THE DEFENDANT: Guilty.

22 THE COURT: Understanding the nature of the charge
23 of criminal sexual conduct with a minor in the third degree
24 understanding the consequences of a maximum sentence of up
25 to 15 years for that charge, how do you wish to plea to

1 that charge? Guilty or not guilty?

2 THE DEFENDANT: Guilty, Your Honor.

3 THE COURT: Understanding the nature of the charge
4 on Indictment 23015-GS-32-2248, sexual exploitation of a
5 minor, Minor , and the consequences of a sentence of
6 up to 10 years on that charge, how do you plea to that
7 guilty or not guilty?

8 THE DEFENDANT: Guilty, Your Honor.

9 THE COURT: Understanding then the nature of the
10 charge of sexual exploitation of a minor, 2015-GS-32-2250
11 with visual representations of unknown minor females for
12 which you could receive a sentence of up to 10 years, how
13 do you plea to that charge guilty or not guilty.

14 THE DEFENDANT: Guilty, Your Honor.

15 THE COURT: You understand that when you plead
16 guilty to these charges you admit the truth of those
17 charges?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: You may have defenses, Mr. Boatwright
20 to the charges against you. I don't know whether you do or
21 not. Do you understand that if you plead guilty you will
22 waive or give up any and all defenses you have to these
23 charges.

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: You may have given incriminating

1 statements in these cases. If you plead guilty, do you
2 understand that you waive or give up the right to contest
3 or challenge whether such statements were given freely and
4 voluntarily in accordance with your constitutional rights?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Did you commit these offenses?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Solicitor, have there been any plea
9 negotiations in this case?

10 MS. MAYES: No, sir, Your Honor, this is a straight
11 up plea as to all charges in Lexington County.

12 THE COURT: Is that -- is that correct, Ms.
13 Fullwood?

14 MS. FULLWOOD: Yes, Your Honor.

15 THE COURT: Is that your understanding,
16 Mr. Boatwright?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you wish to plead guilty?

19 THE DEFENDANT: Yes, Your Honor.

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

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Has anyone threatened you or used force
24 to get you to plead guilty?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Has anyone used any pressure or
2 intimidation to cause you to plead guilty?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: Have you had enough time to make up
5 your mind about whether or not you want to plead guilty?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Are you pleading guilty as to each of
8 these charges of your own free will and accord?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Are you satisfied with the manner in
11 which your lawyers have advised you and represented you?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Have you talked with your lawyers as
14 often and for as long as you feel necessary for them to
15 represent you?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you need anymore time to talk with
18 your lawyers?

19 THE DEFENDANT: No Your Honor.

20 THE COURT: Have you understood your talks with
21 your lawyers?

22 THE DEFENDANT: Yes.

23 THE COURT: Have your lawyers done everything for
24 you that you feel like they could have done or should have
25 done?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Have your lawyers done anything in your
3 cases that you feel like they should not have done?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Are you totally and completely
6 satisfied with your lawyers services?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you have any complaints that you
9 want to make about your lawyers, the solicitor, or any
10 officers or officials involved in your case?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Have you understood my questions?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Is there anything you would like to ask
15 me about what we've just been over?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Do you understand that you have the
18 right to appeal your guilty pleas and the sentences of the
19 Court and that you or your lawyer must do so within 10
20 days?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. Solicitor, if you would
23 give me the facts, please.

24 MS. MAYES: May it please the Court. Your Honor,
25 during the proffered testimony yesterday from Minor

1 you heard pretty much the nature of these charges and how
2 they began in Kentucky, continued into Texas and then once
3 the family relocated here to South Carolina continued here
4 and became progressively worse over time.

5 And in this situation in South Carolina, Minor was
6 being home schooled. She was very isolated. It's really a
7 tragic situation looking at this in hindsight. It wasn't
8 until almost a year later when her mother actually followed
9 through on plans for a divorce that she was able to make a
10 disclosure of this activity. And Your Honor, once she did
11 make a disclosure, she did reveal that she had been
12 assaulted that final time here in Lexington County at
13 gunpoint.

14 That gun was actually recovered. That final
15 assault was in July of 2012 and Detective Traci Barr was
16 able to recover information about that gun. That's a
17 Taurus 45 caliber revolver known as the judge. And the
18 child gave a description -- the child gave a description of
19 that pistol that matched identically what Detective Barr
20 was able to go and photograph. This weapon was actually
21 sold to his uncle, Terry Harwell, in September of 2012, so
22 about two months later.

23 And, Your Honor, when the child got her forensic
24 interview and did make a disclosure, she handwrote a list
25 for the forensic interviewer of all of the places that she

1 remembered it happening in Lexington.

2 She wrote my bedroom, living room, his bedroom,
3 living room, my bedroom, living room, his bedroom, living
4 room, his bedroom, living room, my bedroom, his bedroom,
5 living room, his bedroom, my bedroom, and then she wrote 30
6 next to that as the approximate number of times she thinks
7 that he had sexual intercourse with her here in Lexington
8 County.

9 And it was later, Your Honor, that while he was
10 incarcerated at the detention center, he was housed with
11 another sex offender. His name is Mark McDaniel. He's on
12 the witness list. I believe he's actually here at the
13 courthouse today. He was prepared to testify in this case.
14 Mark McDaniel was being held at the detention center for a
15 charge of criminal sexual conduct himself which was incest
16 related. And in November of 2013, Mark McDaniel contacted
17 one of the detectives at the sheriff's department, Trish
18 Stoner and advised her that he had had lengthy
19 conversations with his cellmate, Mr. Boatwright, and that
20 Mr. Boatwright had confessed these events to him and had
21 gone into great detail.

22 He actually provided what was called the book. And
23 it's about 14 pages of just sexual explicit graphic
24 descriptions of these encounters that Boatwright we allege
25 had with Minor. And this is one of the items that was sent

1 to the State Law Enforcement Division for analysis. There
2 are signatures throughout this document. According to
3 Gaile Heath, the expert for questioned documents at the
4 State Law Enforcement Division, it is his signature on the
5 docket -- on the document.

6 She also was able to use for comparison various
7 items that had been located from the family home in
8 Kentucky. That included, I believe, a lease, a U-Haul
9 receipt, a signing on a DSS document, and then a water
10 bill. And Detective B. J. Burton is here from the Kentucky
11 State police. He's another witness who was going to be
12 testifying today. He actually went to the family home and
13 retrieved those documents.

14 All of those documents were used by the State Law
15 Enforcement Division as well for comparison analysis to
16 this handwritten document. And again, according to Gail
17 Heath, this document was written by Mr. Boatwright. He
18 states, My plan to murder my wife and my step kids because
19 I felt like the world was closing in around me, especially
20 if Minor was ever to reveal our really -- our very real and
21 wild sex life. And he notes that as the Spring of 2012
22 when he would have been living here in Lexington County.

23 He spends about six pages talking about that final
24 incident here in Lexington County which occurred on July
25 20th, 2012. The child's mother had been arrested on a

1 fraud charge out of Kentucky and when she was picked up on
2 that charge she was taken down to the detention center and
3 the children were left alone with Mr. Boatwright throughout
4 that night and into the early morning hours.

5 And he writes it was July 20th, 2012 on a Friday at
6 11:01 a.m. in the morning. That morning Lexington County
7 deputy arrested Crystal for warrants out of Kentucky. And
8 he goes on to describe the events of that night and he
9 admits to drinking throughout that night and that is
10 consistent with what the child reported in her forensic
11 interview. He ends up writing, The two of us F'd -- and
12 that's a sexually explicit term -- in every room in the
13 house. We also on the back porch and the only place we
14 didn't was Jarrett's bedroom, speaking of the little
15 brother.

16 He says, By 5 a.m. the next morning, me and Minor
17 had a grand total of 15 times in 15 different places. And
18 then he lists out those places and it is signed LCDC,
19 November 22nd, 2013, R. L. Boatwright and according to
20 Gaile that is his signature.

21 He writes in another document that he was concerned
22 about the child telling or revealing this. He says Minor
23 would tell all about our wild sex that me and her have been
24 having. I could feel the world closing in around me. I
25 was thinking about the police would arrest me. I would go

1 to jail and even prison. So what could I do. And then it
2 came to me, I need to murder my wife and her two kids. It
3 was the only way to handle it. And I would just take the
4 three of them out to Old State Road in Cayce, South
5 Carolina. And he talks about disposing of the bodies
6 there.

7 He says I could just go on with my life like
8 nothing ever happened. I had a gun already to shoot them.
9 It was called the judge. It's a 5 shot revolver that
10 shoots 45 long colts and 410 shotgun shells. It's a
11 stainless steel pistol made by Taurus, a sweet gun. And I
12 hated to make it disappear, but I couldn't afford to get
13 caught with it.

14 Your Honor, those details that are contained in
15 this had not been disclosed by the child in the forensic
16 interview. She didn't even know the make and model of that
17 gun. So there were certain details contained here that
18 only he would know. In addition Mark McDaniel did inform
19 Detective Stoner in November of 2013 that according to
20 Mr. McDaniel, he had a computer with images of Minor on it
21 and that one of those images included an object vaginally
22 inserted, which was a Sharpee pin. That was later
23 corroborated once that computer was located in December of
24 2013 and then analyzed by the forensic examiner at the
25 sheriff's department.

1 And so again, that is information that someone
2 would have only known if it had been provided directly from
3 this defendant.

4 Your Honor, as to prior record, he only has a
5 driving under suspension conviction from 1992 and the
6 disorderly conduct conviction from 1995.

7 Finally, Your Honor, I know that there were many,
8 many images that were marked yesterday for ID. That is
9 only a small sample of the images of Minor. There were
10 numerous, numerous images of her that were duplicates of
11 those photos just located in different files. The primary
12 file or user account was Rick, which is what the defendant
13 is known by and there were sub-folders for Rick, the user
14 name Rick, which were, Minor's naked pics. That had been an
15 encrypted file. Also My stories and My eyes only. All of
16 those files had been encrypted and ultimately were
17 decrypted by the sheriff's department during the
18 examination.

19 Finally, Your Honor. I'm going to pass up some
20 photos that we have not yet marked. There was an
21 application on that computer system which allowed the user
22 to go in and either write on a photograph using a software
23 such as Paint or to type on it and then post a caption to a
24 photograph. And on the photographs of Minor, the sexual
25 explicit photographs of Minor. He wrote my name -- and this

1 is typed -- my name is Minor. I am 11 years old and then
2 F'd, again that's a sexually explicit reference, a bunch by
3 my dad. And then it goes on into far more detail about
4 that. They're also handwritten on one of the photographs
5 next to her genitals, it says, Daddy's, with an arrow.
6 There's a reference to the one with the Sharpee pen and
7 then there's another one depicting Minor standing in her
8 bedroom where it's handwritten on the actual photograph the
9 words slut and whore.

10 And I'm going to pass those up to the Court. And
11 Your Honor, I do believe that Minor wishes to address the
12 Court at the time Your Honor deems appropriate.

13 (The photographs were handed to the Court.)

14 THE COURT: All right. Solicitor, I will hear from
15 anyone you would like know hear from.

16 (The solicitor was talking with the victim.)

17 MS. MAYES: Your Honor, Minor wanted to relay to the
18 Court that she would like him to receive a maximum
19 sentence; that she most of all is grateful that through
20 this guilty plea and through this procedure he will not be
21 able to harm any other child.

22 THE COURT: Thank you, thank you, Solicitor.
23 Anything additional, Solicitor?

24 MS. MAYES: No, sir, Your Honor.

25 THE COURT: What type of pen wrote these words?

1 MS. MAYES: Your Honor, that is actually a software
2 application that allows a user to post script or captions
3 onto a photograph. And I'm not specifically --

4 THE COURT: After the photograph is taken?

5 MS. MAYES: Yes, sir, but it's actually done on the
6 computer so the image is found that way on the computer.

7 THE COURT: So the -- when the photographs were
8 taken, these words were not on the photograph.

9 MS. MAYES: Correct, Your Honor.

10 THE COURT: And thereafter applied by the computer
11 program?

12 MS. MAYES: Correct, Your Honor. We actually have
13 those same photographs in other folders where they're
14 unmarked and then those are some of the marked photos.

15 THE COURT: However, one of the photographs, I
16 believe that you introduced yesterday in-camera that I
17 reviewed last night, it appeared it had a black word or
18 something in the front of it, but it was actually written
19 on it.

20 MS. MAYES: Yes, sir, Your Honor.

21 THE COURT: And it was part of the photograph
22 itself, correct?

23 MS. MAYES: Yes, sir, Your Honor. That is a
24 photograph that was recovered on the computer that had been
25 taken -- the photograph had been taken in Minor's room here

1 in Lexington County.

2 THE COURT: Thank you, thank you, Solicitor.

3 I find that there is a substantial factual basis
4 for each of these guilty pleas -- well, Solicitor, tell me
5 about the criminal sexual conduct with a minor -- excuse
6 me. Tell me about the sexual exploitation of a minor third
7 degree concerning the unknown females.

8 MS. MAYES: Yes, sir, Your Honor. Those are not
9 believed to be any females that he had direct contact with
10 himself. Those are images that according to Detective
11 Phipps would have been traded or obtained somehow via the
12 internet through some type of illegal transfer or trade of
13 pornographic images of children. Detective Phipps felt
14 like there were numerous, numerous, numerous photographs,
15 over a hundred. There were also movies. He selected five
16 photographs which have been submitted to the court
17 reporter. Those photographs actually depicted prepubescent
18 children engaged in sex acts with adults and those would
19 have been the potential evidence offered in this case.

20 THE COURT: All right. And I did also review those
21 five that was offered on the -- during the in-camera
22 hearing yesterday to make a ruling as to Ms. Fullwood's 403
23 objection as to, not only those, but to all of those
24 photographs that were introduced in-camera.

25 Thank you, Solicitor.

1 Again, I find now there has been a substantial
2 factual basis for each of these guilty pleas as to criminal
3 sexual conduct with a minor second degree, criminal sexual
4 conduct with a minor third degree, sexual exploitation of a
5 minor third degree as to victim Minor , and sexual
6 exploitation of a minor third degree as unknown minor
7 females.

8 I find that the defendant's decision to enter these
9 pleas of guilty is freely, voluntarily, knowingly and
10 intelligently made, that he has had the counsel of very
11 competent attorneys with whom he is -- says he is well and
12 totally satisfied. His pleas of guilty as to each of these
13 charges are therefore accepted.

14 Ms. Fullwood?

15 MS. FULLWOOD: Thank you. Your Honor, Rick was
16 born and raised here the Lexington County. Ms. Mayes gave
17 reference -- made reference to his uncle, Terry Harwell,
18 and his wife Debra Harwell were witnesses in this case.
19 Not only as to the gun, but as to a transfer of property
20 that led to discovery of these images on the computer. My
21 investigator talked to them and they told him that Rick had
22 a very disturbing and abusive early childhood. Not
23 something like this. It was nothing of a sexual nature,
24 but apparently there was no dad in the picture. His mother
25 wanted to date and party for lack of a better word. He was

1 often abandoned, hungry, spanked, you know, he was just an
2 inconvenience in his mom's life. When he turned 13, he was
3 old enough to sort of make his own decision and he went to
4 live with the Harwells and that's where he finished up his
5 childhood years. Even though he did have early years of
6 deprivation, he tried his best to make something of
7 himself.

8 As you've heard, he got a high school diploma.
9 He's -- he has a CDL. He worked driving long distance
10 trucks all around to make deliveries. He did all sorts of
11 work too. He was the type of person who would do whatever
12 work was there for him to do. And he did not do work on
13 the margins of society. He worked at a job that paid him
14 over the counter and made a living wage where he could
15 work, support himself, and support a family. And he was
16 proud of that I think. And rightfully so because he did,
17 through his own hard work, put himself in a place where he
18 didn't have to depend on anybody else.

19 He's been married before and is divorced. There's
20 nothing in his background that shows that that has anything
21 to do with any child molestation issues. He had a
22 girlfriend for 13 years up in Kentucky. Again, no
23 indication that there were any child molestation issues
24 there. You know, usually when somebody is charged with a
25 crime of this magnitude, if they don't have a prior

1 conviction for something like that, there have been
2 questions or investigations, people realize something's up
3 before somebody gets to be almost 50 years old. I just
4 point out that that's not present in this case.

5 He's sorry for what Minor has gone through, for
6 what, five or six years now. There's just no way to
7 adequately say something that would, you know, convey the
8 sorrow and the regret that she had -- that no child should
9 have to go through something like that.

10 I point out though through the discovery process,
11 I've learned that she is a smart, sort of academically
12 gifted young woman. She was up there on that stand and she
13 showed a lot gumption and hope with her grains and strength
14 and with her spirit. I think she can go a long way in life
15 and I hope she will.

16 I'd ask Your Honor to consider these things, first
17 of all, he -- he's pled and accepted responsibility for
18 this conduct. He spared Minor from having to testify about
19 these types of things before a jury. I know she was a good
20 witness yesterday, but I can only imagine it was harder for
21 her then and it might be harder to have to do it in a room
22 full of people. I'd ask you to take into consideration
23 that he has minimal -- minimum prior criminal record and
24 that he's never been accused of child molestation in the
25 past.

1 You know, Ms. Mayes made mention to the fact that
2 he'd been drinking on this last time in Lexington and I
3 think everybody agrees from the discovery process and he
4 himself, he had gotten where he has developed a very
5 serious alcohol problem and if he wasn't working, he was
6 drunk and drinking. According to his uncle, his family has
7 a long history of alcoholism and substance abuse and I
8 think that was apparent in his mom who wouldn't even raise
9 a child, it was because it would protect her from -- from
10 abusing substances.

11 He knows he's going to get a substantial sentence,
12 Your Honor. And we'd also ask you to take into
13 consideration he's almost 50 years old. What we would
14 simply ask the Court to do is to give him concurrent
15 sentences. He came in today and he was ready to do what he
16 thought was the right thing to do. Thank you.

17 THE COURT: Thank you, thank you, Ms. Fullwood.

18 Ms. Mauldin, anything you'd like to add?

19 MS. MAULDIN: Your Honor, I can say this is not a
20 decision that he has made lightly. This is case where as
21 you heard, there was no plea offer that's been made today
22 and from what I understand there has not been a plea offer
23 extended even earlier in the case. But he has realized
24 that this is not something that he wants to prolong for
25 anyone unnecessarily.

1 THE COURT: Thank you, thank you, Ms. Mauldin.

2 Anything you'd like to say, Mr. Boatwright?

3 THE DEFENDANT: Yes, I am -- I'd like to address

4 Minor and Crystal Boatwright. I'm very sorry for
5 what I put y'all through and I'm paying for it. And I'm so
6 very sorry. And I hope Minor does go on with her life
7 because she is a very, very bright child. And I'm sorry I
8 come into her life and made this to happen. And if I could
9 take it all back, I would in a heartbeat. But I can't. We
10 all know that.

11 And if they forgive me, they forgive me. If they
12 don't, Your Honor, I have to live with this for the rest of
13 my life and I'm man enough to stand before you and the rest
14 of this court and admit my wrongdoing and admit my guilt on
15 this day. And I have admitted it and I am truly, truly
16 sorry. I can't point a finger at nobody. I can't point it
17 at my past. I got to point it at me because I'm a grown
18 man, I'm in control. Yes, I do have a drinking problem --
19 or I did have a drinking problem. Being locked up for 34
20 months, you kind of quit then. But that's no excuse.

21 All I can say is I'm very sorry and I wish there
22 was more I could do. And I'm glad I had a chance to not
23 put that child through anymore than this by making her sit
24 there and testify in front of those other -- strange people
25 she does not know. I hope she goes back to Kentucky gets

1 around her family and her family takes her in, which I know
2 they do; loves her and everything and I hope eventually
3 maybe one day she can put it behind her some way.

4 THE COURT: Anything further?

5 THE DEFENDANT: No, sir.

6 THE COURT: Anything further, Ms. Fullwood?

7 MS. FULLWOOD: No, Your Honor.

8 THE COURT: Solicitor?

9 MS. MAYES: No, sir, Your Honor.

10 THE COURT: Mr. Boatwright, I am -- of course I'm
11 sure you'll get different opinions of this and sometimes
12 one's opinions are of oneself may not be reality, but I
13 preface these questions by advising you that I don't think
14 I'm one as far as a judge to preach. Typically I tell
15 people I don't -- I didn't preach to my children because A,
16 I wasn't much of a preacher; and B, it really didn't do any
17 good, so I don't preach.

18 And your attorneys, both Ms. Fullwood and Ms.
19 Mauldin, I have the highest regard for both professionally
20 because of their competence and professionalism and
21 preparation whether it's a trial, a plea or otherwise and
22 have the highest regard for them personally and have had
23 the occasions in the past to participate in trials when Ms.
24 Fullwood was probably the opposing attorney. And they do
25 excellent jobs in all aspects of the criminal law, both in

1 and out of the courtroom.

2 Though that does not diminish also the respect I
3 have of the solicitors involved in the trial of this case
4 who have appeared before me and, obviously, they have
5 researched your background as far as your childhood
6 upbringing that you -- to a certain point in your life you
7 certainly went beyond your circumstances and perhaps didn't
8 have to opportunities that I and many others in this
9 courtroom have had in life because of a childhood of
10 deprivation. And I take all that Ms. Fullwood tells me as
11 totally and absolutely truthful and correct.

12 As I say, knowing her and as being an officer of
13 the Court. I take into account your minimal prior criminal
14 history, your verbalization of remorse and your acceptance
15 of responsibility.

16 I guess in 2011 you would have been about 44 years
17 old, 45, if you're 49 now.

18 THE DEFENDANT: 45, yes, sir. Or 44.

19 THE COURT: All right. 44?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Why did this happen?

22 THE DEFENDANT: In all honesty, I don't know. I've
23 been asking myself that same question ever since.

24 THE COURT: And if you get to that point at 44
25 years in life, and I read psychology, they say our actual

1 personalities are set by a certain age that is much less
2 than 44 years of age. And you had no history of that -- of
3 course, history is built on one event at a time, so -- and
4 it's not always documented either. Alcohol obviously is a
5 depressant. Obviously it reduces people's inhibitions.
6 But at the same time, reducing inhibitions when you're
7 sitting in a bar with other adult males and females, it
8 generally doesn't reduce one's inhibitions to -- it doesn't
9 -- and that -- generally it doesn't reduce one's
10 inhibitions to sexually assault one's minor stepchild or
11 any minor. Why did this happen?

12 THE DEFENDANT: One, I wasn't in a bar.

13 THE COURT: Sir?

14 THE DEFENDANT: I wasn't in a bar. I was always
15 drinking at home.

16 THE COURT: Right. I understand that.

17 THE DEFENDANT: I -- I don't know. I've been
18 trying to find that question -- that answer to that
19 question myself. I've asked myself that question a
20 thousand times in the mirror, over and over again. The
21 best answer I can come up with, I got out of control.

22 THE COURT: I'm sorry?

23 THE DEFENDANT: I got out of control. Life just
24 got out of control.

25 THE COURT: And, of course, in reviewing the

1 evidence and reviewing the photographs yesterday evening,
2 well, excuse me, this morning I reviewed the medical
3 records yesterday evening and the photographs this morning.
4 I was struck on the photographs not only with the graphic
5 display of the photographs as far as the genitalia and
6 breasts of minor female children, which is very disturbing,
7 but beyond that, both as to Miss Minor and as to the
8 unknown minor female victims, looking at the expressions on
9 their face was as disturbing to me as the depiction of the
10 sexual activity. They were in distress. They were being
11 subjected to abuse that no minor child or individual should
12 be objected -- subjected to.

13 I have not seen such depravity short of a taking of
14 one's life. And I believe the foundation of all crime is
15 stealing -- it's being a thief. If you kill somebody, you
16 steal their life. If you lie to somebody, you steal the
17 truth from them. If you abuse a child, you steal their
18 childhood. And sometimes, I hope not in this case, but the
19 intelligence that I observed and have reviewed in the
20 records of Miss Minor, sometimes you steal much beyond
21 their childhood because sometimes some wounds never heal.
22 And the scars aren't apparent, but many times wounds that
23 you can't see the scars may be much more serious than the
24 wounds that have been inflicted and you can see the scars.

25 All right. I take all into account as far as the

1 mitigation presented by Ms. Fullwood and Ms. Mauldin. I
2 take into account Mr. Boatwright's statement to the Court,
3 his verbalization of remorse. I take into account the
4 facts and circumstances of all the cases and the evidence
5 that's been presented to the Court, the solicitor's
6 statement, the statement by the solicitor with the -- with
7 Miss Minor standing next to her unable to address the
8 Court.

9 2014-GS-32-201105, Richard Lee Boatwright, criminal
10 sexual conduct with a minor second degree, the defendant is
11 committed to the State Department of Corrections for a
12 determinate term of 20 years. He is to be given credit for
13 all time served.

14 2014-GS-32-01316 Richard Lee Boatwright criminal
15 sexual conduct with a minor in the third degree, the
16 defendant is committed to the State Department of
17 Corrections for a determinate term of 15 years. He is to
18 be given credit for all time served.

19 2015-GS-32-02245 Richard Lee Boatwright sexual
20 exploitation of a minor third degree, the defendant is
21 committed to the State Department of Corrections for a
22 determinate term of 10 years.

23 And 2015-GS-32-02250, Richard Lee Boatwright,
24 sexual exploitation of a minor third degree, the defendant
25 is committed to the State Department of Corrections for a

1 determinate term of 10 years.

2 All sentences are consecutive to all other
3 sentences imposed this date. Good luck to you -- good luck
4 to you, Mr. Boatwright.

5 THE DEFENDANT: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 MS. MAYES: Thank you, Your Honor.

8 MS. FULLWOOD: Thank you, Your Honor.

9 THE COURT: Thank you, Ms. Fullwood, thank you Ms.
10 Mauldin.

11 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**
3
4
5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on 26th through the 27th
13 days of April, 2017.
14 I FURTHER CERTIFY that I am neither kin, counsel,
15 nor of interest to any party hereto.
16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal at Aiken County, this 12th day of September, 2017.
18
19
20
21
22 *Brenda J. Sigwald*
23 Brenda J. Sigwald,
24 Court Reporter and Notary Public
25 For the State of South Carolina
My commission expires
January 4, 2020

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

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

Richard Lee Boatwright #367956)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2017 CP 3201186

APPLICATION FOR

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 McCormick Correctional Institution
2. Name and location of Court which imposed sentence Court of General Sessions, Lexington County Court House.
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014-GS-3201316 - Criminal Sexual Conduct with a Minor - 3rd degree
 - (b) 2014-GS-3201105 - Criminal Sexual Conduct with a Minor - 2nd degree
 - (c) 2014-GS-3202242 - Sexual exploitation of a minor - 3rd degree
 - (d) 2015-GS-3202250 - Sexual Exploitation of a Minor - 3rd degree
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 26, 2016 - fifteen / 15 years.
 - (b) April 26, 2016 - Twenty / 20 years

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Revised 3/2003

- (c) April 26, 2016 - Ten/10 years. (D) April 26, 2016 - Ten/10 years.
6. Check whether a finding of guilty was made:
- (a) ☒ after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
N/A
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: Lawyer Failed to
- (a) advise applicant of appeal rights.
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

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Revised 3/2003

- (a) Ineffective assistance of counsel.
- (b) Ineffective assistance of counsel.
- (c) Ineffective assistance of counsel.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Failure to investigate potentially exculpatory evidence
- (b) Failure to discover potentially exculpatory evidence
- (c) Failure to investigate or discover potentially exculpatory evidence that would have led counsel to change his recommendation as to the p

12. Prior to this application have you filed with respect to this conviction:

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

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. _____

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John J. Comer
Lex. Co. C.C.C.P., G.S. & F.C.

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?

N/A

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) Initial Post-Conviction Action.

(b) Initial Post-Conviction Action.

(c) Initial Post-Conviction Action.

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

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

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

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. Elizabeth C. Fullwood. 407 1/2 W. Main St. Lexington, MA 01872
- ii. _____
- iii. _____

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

- i. Arraignment, Plea and sentencing.
- ii. _____
- iii. _____

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

Convictions and sentences vacated and remanded for new trial.

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

No.

A TRUE COPY

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

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

Richard
I, Richard, 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.

Richard L. Boatwright
Applicant

SWORN or affirmed to and subscribed before me this
 03 ~~04~~ day of 03 April, 2017

(94) J. Franklin
Notary Public

My Commission Expires: 12.16.2019

A TRUE COPY

Joe Connor
Lex. Cl. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)

County of MacCormick)
Lexington)

VERIFICATION

I, Richard L. Boatwright, 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.

Richard L. Boatwright

SWORN to and subscribed before me this 07
day of April, 2017.

J. Franklin (L.S.)
Notary Public

My Commission Expires: 12.16.2019

A TRUE COPY

Revised 3/2003

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

Richard Lee Boatwright, #367956,

C/A No. 2017-CP-32-01186

Applicant,

V.

RETURN

State of South Carolina,

Respondent.

In making its Return to the *pro se* application for post-conviction relief filed April 6, 2017, by the above-captioned Applicant, Respondent, the State, would respectfully show this Court:

I. History of Conviction and Sentence

The Lexington County Grand Jury indicted Applicant Richard Lee Boatwright (hereinafter “Applicant”) in May 2014 for the charges of criminal sexual conduct (herein after “CSC”) with a minor, second degree; and CSC with a minor, third degree. On September 14, 2015, the Lexington County Grand Jury returned additional indictments for two separate charges of sexual exploitation of a minor, third degree. (Attachment 1: Indictments). Each charge concerned the same victim. (*Id.*).

Elizabeth Fullwood of the Eleventh Circuit Public Defender's Office represented Applicant, who pled guilty to each above-named charge on April 26, 2016. The Honorable R. Knox McMahon presided.¹ Suzanne Mayes of the Eleventh Circuit Solicitor's Office appeared on behalf of the State.

¹ A transcript of this hearing has been ordered, but has not yet been furnished by the court reporter. In accord with S.C. Code. Ann. § 17-27-70(a), Respondent intends to incorporate the

Judge McMahon sentenced Applicant to twenty years' incarceration for CSC with a minor, second degree; fifteen years for CSC with a minor, third degree; and ten years for each of two charges of sexual exploitation of a minor, third degree. Applicant's sentences were issued to run consecutively. He was credited for time served. (Attachment 2: Sentencing Sheets).

Applicant did not pursue a direct appeal of his conviction and sentence. *See* Rule 203 (establishing timeline and requirements for appealing from the Court of General Sessions). Applicant is presently confined with the South Carolina Department of Corrections at the McCormick Correctional Institution pursuant to orders of commitment by the Lexington County Clerk of Court. (Attachment 4: SCDC Records)

II. The Instant Application

Applicant commenced the present action by filing his application with the Lexington County Clerk of Court on April 6, 2017. S.C. Code. Ann. § 17-27-40. Applicant timely filed within the one-year statute of limitations. S.C. Code. Ann. § 17-27-45(A).

Aimee Zmroczek, Esquire, has been appointed to represent Applicant in the present application, and has acknowledged such appointment in a letter dated June 1, 2017. (Attachment 3: Letter from Applicant's Counsel).

Within his *pro se* application, Applicant alleges that he is being held in custody unlawfully and seeks relief premised upon the following reasons, enunciated in questions 10 and 11 of the post-conviction relief (hereinafter "PCR") application and copied verbatim below:

Ineffective assistance of counsel:

- (a) Failure to investigate potentially exculpatory evidence
- (b) Failure to discover potentially exculpatory evidence
- (c) Failure to investigate or discover potentially exculpatory evidence that would have led counsel to change his recommendation as to the p[lea].

transcript of the proceedings by reference once one becomes available, and before such time as this matter proceeds to an evidentiary hearing.

Applicant includes no attachments or memoranda in support of these claims.

III. Standard for Post-Conviction Relief

“In order to establish a claim of ineffective assistance of counsel, a PCR applicant must prove: (1) that counsel failed to render reasonably effective assistance under prevailing professional norms; and (2) that the deficient performance prejudiced the applicant’s case.” *Porter v. State*, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006) (citing *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052 (1984) (seminal case developing the ineffective assistance of counsel standard)). At all times during the proceeding, the Applicant maintains the burden of establishing that he is entitled to relief. *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007). Moreover, the proceeding is coupled with “a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgement in making all significant decisions in the case.” *Morris v. State*, 371 S.C. 278, 282, 639 S.E.2d 53, 55 (2006).

IV. Request for the Resolution of Applicant’s Claims

The State makes its Return pursuant to S.C. Code. Ann. § 17-27-70(a). It bears noting that Applicant’s claims appear redundant. Respondent denies the allegation of ineffective assistance of counsel raised herein. As Applicant fails to present any facts in support, the claim is too vague to offer anything more than a general denial.

Without more, the claim is also too vague to warrant relief. A PCR application shall “specifically set forth the grounds upon which the application is based” including “[f]acts within the personal knowledge of the applicant.” S.C. Code. Ann. § 17-27-50. An applicant must produce facts or testimony in support of an ineffective assistance allegation in order to establish that the claim meets the standard warranting relief. *Id.* Otherwise, summary dismissal is

appropriate. Rule 12(b)(6), SCRCP; *see Dempsey v. State*, 363 S.C. 365, 610 S.E.2d 812 (2005); *Bannister v. State*, 333 S.C. 298, 509 S.E.2d 807 (1998).

Our courts have determined that a claim of ineffective assistance of counsel may not be conclusively refuted by the record, thus raising a question of fact and requiring an evidentiary hearing. *Sharper v. State*, 279 S.C. 264, 266, 305 S.E.2d 247, 249 (1983). Respondent submits that an evidentiary hearing may be necessary to fully develop factual support in furtherance of this allegation, and requests the same. S.C. Code Ann. § 17-27-80. However, as-is, this petition may be appropriately resolved through summary dismissal pursuant to Rules 12(b)(6) or 56, SCRCP. S.C. Code Ann. § 17-27-70(b). Respondent also submits that Applicant cannot satisfy either requirement of the standard established in *Strickland v. Washington*, *supra*.

Respondent additionally hereby reserves the right to amend its Return to the extent Petitioner may file amendments in accord with S.C. Code. Ann. § 17-27-70(a), or to the extent the claims develop and a transcript of proceedings becomes available prior to the convening of an evidentiary hearing.

V. Conclusion

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

WHEREFORE, having made the Return, Respondent requests the Court hold an evidentiary hearing on the issue of ineffective assistance of counsel.

Respectfully submitted,

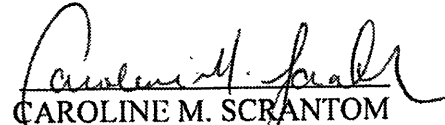
ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

CAROLINE M. SCRANTOM
Assistant Attorney General

By:


CAROLINE M. SCRANTOM
S.C. Bar No. 101357

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR RESPONDENT

June 12, 2017
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS
IN THE ELEVENTH CIRCUIT

2017-CP-32-01186

Richard Lee Boatwright, # 367956

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,

Respondent

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

Aimee J. Zmroczek, Esquire
Post Office Box 11961
Columbia, SC 29211

DATED this 12th day of June, 2017


Troyeshi Brailey, Paralegal
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

**IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT**

Richard Lee Boatwright, #367956,

C/A No. 2017-CP-32-01186

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

Attachment 1

WITNESSES

Lexington County Sheriffs Department

Tricia Chandler Stoner

Law Enforcement Case #: 13006622

LSM

ARREST WARRANT NUMBER

2013A3210201295

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 5/5/14

VERDICT

Foreperson of Petit Jury
Date:

A TRUE COPY

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

DOCKET NO. 2014GS3201105

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2014

**THE STATE
vs.**

Richard Lee Boatwright

CDR #: 0396

Indictment for

**Criminal Sexual Conduct with a Minor -
Second Degree**

§ 16-03-0655(B)(1)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

)
) INDICTMENT FOR
) Criminal Sexual Conduct with a Minor - Second
) Degree

§ 16-03-0655(B)(1)

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

That Richard Lee Boatwright did in Lexington County, South Carolina on or about February 1st, 2012 through August 1st, 2012, willfully and unlawfully commit the offense of criminal sexual conduct with a minor in the second degree by engaging in sexual battery with a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: sexual intercourse and/or genital intrusion upon Minor

, date of birth [REDACTED]/2000, in violation of Section 16-3-655(B)(1), S.C. Code of Laws, 1976, as amended.

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

Supanne Hayes
ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Tricia Chandler Stoner

Law Enforcement Case #: 13006622

LSM

ARREST WARRANT NUMBER

14-STR-00021

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 5/5/14

VERDICT

Foreperson of Petit Jury
Date:

A TRUE COPY

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

DOCKET NO. 2014GS3201316

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2014

**THE STATE
vs.**

Richard Lee Boatwright

CDR #: 3661

Indictment for

**Criminal Sexual Conduct With a Minor
3rd degree**

§ 16-03-0655(C)

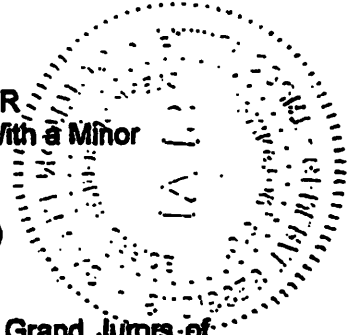
DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

INDICTMENT FOR
Criminal Sexual Conduct With a Minor
3rd degree

§ 16-03-0655(C)



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

That Richard Boatwright, date of birth [REDACTED] 1967, being a person over fourteen years of age, did in Lexington County, South Carolina, on or about February 1, 2012 through August 1, 2012, willfully and lewdly commit or attempt to commit a lewd and lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of the child, to wit: touching of a sexual nature involving a child, Minor [REDACTED], date of birth [REDACTED]/2000, furthermore, the said child was under the age of fourteen years during the time of these offenses, in violation of Section 16-3-655(C), S.C. Code of Laws, 1976, as amended, and previously codified as attempting or committing a lewd act upon a child pursuant to S.C. Code Section 16-15-140, 1976, as amended.

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

Suzanne Mayes
ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

T. M. Barr

Law Enforcement Case #: 13022431

LSM

ARREST WARRANT NUMBER

2015A3210201011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

9/14/2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS3202248

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2015

THE STATE

vs.

Richard Lee Boatwright

CDR #: 0381

Indictment for

Sexual exploitation of a minor - 3rd degree

§ 16-15-0410(A)

DONALD V. MYERS, SOLICITOR

A TRUE COPY

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

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

INDICTMENT FOR
Sexual exploitation of a minor - 3rd degree

§ 16-15-0410(A)

At a Court of General Sessions, convened on September 2015, the Grand Jurors of Lexington County present upon their oath:

That Richard Lee Boatwright , a person over the age of eighteen years, did Lexington County, South Carolina on or about February 1, 2012 through December 10, 2013, commit the offense of third degree sexual exploitation of a minor, unlawfully and while knowing the character or content of the material, did possess material that contained a visual representation of a minor engaging in sexual activity, to wit: photograph(s) and/or digital image(s) of a minor child, Minor , DOB [REDACTED]/2000, engaged in sexual activity as defined in Section 16-15-375(5), in violation of S.C. Code of Laws Section 16-15-410, 1976, as amended.

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

Suzanne Mayo
ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

T. M. Barr

Law Enforcement Case #: 13022431

LSM

ARREST WARRANT NUMBER

2015A3210201012

ACTION OF GRAND JURY

TRUE BILL

Samuel Baker
Foreperson of Grand Jury
Date: *9/14/2015*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015GS3202250

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2015

**THE STATE
vs.**

Richard Lee Boatwright

CDR #: 0381

Indictment for

Sexual Exploitation of a Minor - 3rd degree

§ 16-15-0410(A)

DONALD V. MYERS, SOLICITOR

A TRUE COPY

Donna Myers
Lex. Clk. C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)

)

INDICTMENT FOR

Sexual Exploitation of a Minor - 3rd degree

COUNTY OF LEXINGTON)

)

§ 16-15-0410(A)

At a Court of General Sessions, convened on September 2015, the Grand Jurors of Lexington County present upon their oath:

That **Richard Lee Boatwright**, a person over the age of eighteen years, did Lexington County, South Carolina on or about February 1, 2012 through December 10, 2013, commit the offense of third degree sexual exploitation of a minor, unlawfully and while knowing the character or content of the material, did possess material that contained a visual representation of a minor engaging in sexual activity, to wit: photograph(s) and/or digital image(s) of unknown minor female(s) under the age of eighteen years engaged in sexual activity as defined in Section 16-15-375(5), in violation of S.C. Code of Laws Section 16-15-410, 1976, as amended.

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

Suzanne Mayer
 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

Richard Lee Boatwright, #367956,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

C/A No. 2017-CP-32-01186

RETURN

Attachment 2

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.Richard Lee Boatwright

AKA:

Race: White Sex: M Age: 49DOB: 1967 SS#: [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]*CDI. Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Criminal sexual conduct with minor - second degree (victim 11 to 14 yrs of age)in violation of § 16-03-0655(B)(1)of the S.C. Code of Laws, bearing CDR Code # 0396☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

W. Smay
Solicitor64191 Richard Lee Boatwright
SC Bar#

Defendant

[Signature]
Attorney for Defendant000000
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 yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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 to all sentence imposed for this date by the State Department of Corrections.☐ 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%) \$ § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 47.9 (Public Def Prob) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-14 (DUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SEX/LA Surcharge) \$5 \$ 53% to Court (if paid in installments) \$ TOTAL \$ 130Clerk of Court: [Signature]County Clerk: [Signature]

SCCA217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS3201105A/W#: 2013A3210201295Date of Offense: 2/1/2012 - 8/1/2012S.C. Code §: 16-03-0655(B)(1)CDR Code #: 0396

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSPresiding Judge: [Signature]Judge Code: 2135Sentence Date: 26 April 14

(0-15)

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.Richard Lee Boatwright

AKA:

Race: White Sex: M Age: 49DOB: -1967 SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Criminal sexual conduct with minor - 3rd degree (previously codified as 16-15-140)in violation of § 16-03-0655(C)

of the S.C. Code of Laws, bearing CDR Code #

3661☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☐ MOST SERIOUS☒ Mandatory GPS(CSC
w/minor 1st or 1.cwd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

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

ATTEST:

R. Smayda
Solicitor6419 Richard L. Boatwright
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of 15 days/months/years or☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of

days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: ☐ Set by SCDPPTSObtain GUD ☐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 FundOther:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (DUI Breath Test Fee)

§ 56-5-2942(7) (Vehicle Assessment)

Proviso 90.3 (SCJA Surcharge)

3% to County (if paid in installments)

TOTAL \$ 130

Clerk of Court Deputy Clerk

Court Report [REDACTED]

SCA: CC, CC, C.P., G.A. & F.C.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS3201316A/W#: 14-STR-00021Date of Offense: 2/1/2012 - 8/1/2012S.C. Code § : 16-03-0655(C)CDR Code #: 3661

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSto all sentences imposed this date☐ Appointed PD or appointed other counsel,
§ 17.12 requires \$500 be paid to Clerk
during probation.Presiding Judge [Signature]Judge Code: 145Sentence Date: 26 April 14

(0-10)

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.Richard Lee Boatwright

AKA:

Race: White Sex: M Age: 49DOB: 1967 SS#: [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]*CDL: Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Sexual exploitation of a minor, Third degreein violation of § 16-15-0410(A) of the S.C. Code of Laws, bearing CDR Code # 0381
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:R. Mayes
Solicitor64191
SC Bar#Richard Boatwright
Defendant[Signature]
Attorney for Defendant000000
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 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 to all see terms imposed this date
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (DUI Breath Test Fee)	\$50
§ 56-5-2942(D) (Vehicle Assessment)	\$40/ca
Proviso 90.3 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$130

A TRUE COPY

Clerk of Court Deputy Clerk

Court Reporter

Lexington County, S.C., P.S. & F.C.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS3202250A/W#: 2015A3210201012Date of Offense: 2/1/2012 - 12/12/2010S.C. Code § : 16-15-0410(A)CDR Code #: 0381

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADSPTUP days/hours Public Service EmploymentObtain 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 FundOther: Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge: [Signature]Judge Code: 1245Sentence Date: 26 April 16

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
)
Richard Lee Boatwright, #367956,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

C/A No. 2017-CP-32-01186

RETURN

Attachment 3

A. J. Z. Law Firm, LLC

Mailing Address
P.O. Box 11961
Columbia, SC 29211

Phone: (803) 400-1918
Toll Free: (844)-501-1661
Fax: (803) 403-8005

Physical Address
2003 Lincoln Street
Columbia, South Carolina 29201

Aimee J. Zmroczek, Attorney
aimee@ajzlawfirm.com

Christina Metze, paralegal
christina@ajzlawfirm.com

June 1, 2017

SC Attorney General's Office
PO Box 11549
Columbia, SC 29211

RE: Richard Boatwright v. State of South Carolina
2017cp3201186

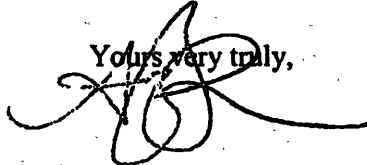
Dear Sir or Madam:

Please be advised I have been appointed to represent Mr. Boatwright in regards to his PCR case referenced above.

Please send all correspondence to my attention at the address above.

Thank you for your assistance with this matter.

Yours very truly,



Aimee J. Zmroczek

AJZ/cam

RECEIVED

JUN 02 2017

Referred to BILOWN/PB
Answered _____

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

Richard Lee Boatwright, #367956,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

C/A No. 2017-CP-32-01186

RETURN

Attachment 4

214

9:28:58 Thursday, May 04, 2017

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 05/04/17
OMCOMITA RELEASE DATE SCREEN C056427
SCDC# > 367956 LOC: MCCORMICK
BOATWRIGHT, RICHARD LEE SCDC CLASSIFICATION... VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY... Y
SEXUAL PREDATOR...: PENDING
DNA STATUS...: COMPLETED
GPS REQUIREMENT...: Y
PREA DECISION...:
PREA PERP...: NONE
PREA VICTIM...: NONE
CURRENT SENTENCE: 055-00-000 CONSECUTIVE SENTENCE ...: Y
055-00-000 CURRENT SENT START DATE: 06/27/2013
PROJECTED COMPLETION DATES
MAXOUT DATE: 12/13/2048 CURRENT EWC ..: 3 F 5
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 06/27/2030 NEXT PAROLE HEARING DATE: 06/27/2030
TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ...: 000330 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 CURRENT OR PRIOR SEX CONDUCT CONVICT
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
TOTAL SERVICE TIME EARNED ...: 001387 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

South Carolina Department of Corrections

Classification Summary Reports

Date: Thursday, May 4, 2017

Classification Summary Reports

Inmate Number **367956**

Submit

Classification Summary Report for BOATWRIGHT, RICHARD LEE :

Create PDF

CLASSIFICATION SUMMARY REPORT DATED 05/04/2017

BOATWRIGHT, RICHARD LEE

FBI# 275071AB5

SCDC# 00367956

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

INSTITUTION: MCCORMICK

SECURITY/CUST: 3 MINIMUM IN

CURR INCARC SENT: 55 YRS 0 MOS 0 DAYS

VICTIM WITNESS: SEPREQ:N

MED CLASS: NO MED PROB/NO WORK RESTR

INST RESTRICT: NO RESTRICTION

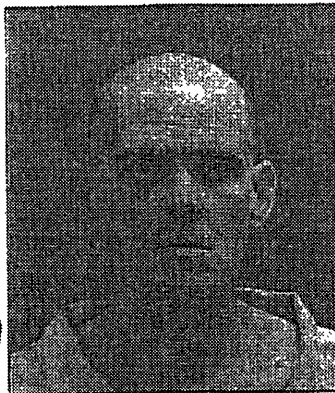
MENTAL CLASS: NMH (NO MENTAL HEALTH TRE

CURRENT PROGRAM: NO CURRENT PROGRAM

SEX REGISTRY: Y

DNA: C

AGE: 50



RESIDENT STABILITY: NA

DORMROOMBUNK_CODE: F3 0258 B

PROJ MAXOUT DATE: 12/13/2048

PROJ PAROLE DATE: 06/27/2030

EWC JOB: GENERAL WORKER

ASSIGNMENT: BLDING DETAIL BLDG. #3

EWC LEVEL: 3F5 EEC LEVEL:-

EDUC PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

CURRENT OFFENSES	YRS		MOS		SENTENCE		START	SENTENCE		
					DYS	COUNTY		V/NV	CAT	INDICT
SEX EXPLOITATION/MINOR 3R	10	0	0		0	LEXINGTON	06/27/2013	N	4	15GS3202250
SEX EXPLOITATION/MINOR 3R	10	0	0		0	LEXINGTON	06/27/2013	N	4	15GS3202248
LEWD ACT/CHILD UNDER 16	15	0	0		0	LEXINGTON	06/27/2013	V	4	14GS3201316
CRIMINAL SEX CNDCT 2ND DEG	20	0	0		0	LEXINGTON	06/27/2013	V	4	14GS3201105

COMPLETED OFFENSES

NO COMPLETED OFFENSES**PRIOR COMMITMENTS OVER 90 DAYS:*****INMATE HAS NO PRIORS*****OFFENSES UNDER PREVIOUS NUMBER:*****NO PREVIOUS OFFENSES*****DETAINERS (HOLD,WANTED,NOTIFY):**

CRIMINAL SEX CNDCT 1ST DEG	WANTED	PRESIDING JUDGE	CATEG:5
RAPE	WANTED	PRESIDING JUDGE	CATEG:5
LEWD ACT/CHILD UNDER 14	WANTED	MATAGORA COUNTY	CATEG:4

ESCAPES:***NO ESCAPE HISTORY*****CRIMINAL CHARGES:*****NO CRIMINAL CHARGES HISTORY*****ASSAULTIVE DISCIPLINARIES:**

03/13/2017	POSSESSION OF A WEAPON	DISMISSED	MAJOR DISC. HEARING	N
------------	------------------------	-----------	---------------------	---

PREVIOUS ASSAULTIVE DISCIPLINARIES:***NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY*****NON-ASSAULTIVE DISCIPLINARIES:**

03/13/2017	USE,POSS NARC,MARIJ,UNAUTH DRUG,INHALANT	DISMISSED	MAJOR DISC. HEARING
03/13/2017	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	DISMISSED	MAJOR DISC. HEARING
03/13/2017	POSSESSION OF CONTRABAND	DISMISSED	MAJOR DISC. HEARING

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:***NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY*****HISTORY OF MOVEMENTS:**

06/30/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
04/27/2016	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
GENERAL WORKER	07/15/2016	-		3F5

HISTORY OF EARNED EDUCATION CREDITS:***NO SCHOOL ASSIGNMENTS***

***** END OF REPORT *****

Create PDF

Source : SummaryReport.jsp

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 [Version: 1.4.12 Built: 02/03/2015 11:57:23 AM Time: 09:30:04 AM]

1 State of South Carolina) In the Court
2 County of Lexington) Of Common Pleas
3 Richard Lee Boatwright,) Case No.: 2017-CP-32-01186
4 Applicant/Plaintiff,)
5 vs.) Transcript of Record
6 State of South Carolina,)
7 Respondent/Defendant.)
8 _____)

9
10 February 21, 2018
11 Lexington, South Carolina

12 BEFORE:

13 The Honorable J. Derham Cole, Judge

14
15 APPEARANCES:

16 Aimee J. Zmroczek, Esquire
17 Attorney for the Applicant/Plaintiff

18
19 Caroline Scrantom, Assistant Attorney General
20 Attorney for the Respondent/Defendant

21 ALSO PRESENT:

22 Richard Lee Boatwright

23
24
25

1	INDEX		
2	PCR HEARING		
3	WITNESS		PAGE
4	RICHARD LEE BOATWRIGHT		
5	Direct Examination by Ms. Zmroczek		5
6	Cross Examination by Ms. Scrantom		16
7	Redirect Examination by Ms. Zmroczek		32
8	ELIZABETH FULLWOOD		
9	Direct Examination by Ms. Scrantom		24
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12			
13	Certificate of Reporter		39
14			
15	EXHIBITS		
16	NO. DESCRIPTION	ID	EVDS.
17	NONE		
18			
19			
20			
21			
22			
23			
24			
25			

1 Thereupon, the following proceedings were had,

2 MS. SCRANTOM: Your Honor, looking towards, well,
3 kind of the top of the roster if we may, Richard Lee
4 Boatwright which is 2017-CP-32-1186, we do have Ms.
5 Fullwood here to testify in that case. She is needed in
6 transfer court upstairs. I believe we're ready to go
7 forward with that hearing if it suits.

8 THE COURT: It suits me to do any of them or all of
9 them.

10 MS. SCRANTOM: Okay. Your Honor, by way of
11 background, Mr. Boatwright was indicted for criminal
12 sexual conduct second degree, criminal sexual conduct
13 third, and two counts of criminal sexual exploitation of
14 a minor third degree. He was called for trial on April
15 26th, 2016 before Judge McMahon. Ms. Beth Fullwood of
16 the Eleventh Circuit Public Defender's Office represented
17 him at that trial. A jury was selected. Pretrial
18 motions were had and the beginning of the next day prior
19 to the jury being sworn in Mr. Boatwright did change his
20 plea to guilty. He was sentenced to 20 years for csc
21 with a minor second, 15 years for csc with a minor third,
22 and 10 years for each of the two charges of sexual
23 exploitation of a minor third degree. His sentences were
24 issued to run consecutively and he was credited for time
25 served. He did not pursue a direct appeal of the

1 conviction and sentence. He filed his PCR application on
2 April 6th of 2017. Ms. Zmroczek has been appointed to
3 represent him in this action.

4 He alleges a general claim of ineffective assistance
5 of trial counsel claiming that counsel failed to
6 investigate or discover exculpatory evidence that would
7 have otherwise changed his decision to plead guilty. He
8 does not specify in his application what that evidence
9 may be. I filed the return on behalf of the State on
10 June 12th, 2017 with attachments and that trial and plea
11 transcript which you have in front of you today.

12 I would move at this time to supplement that return
13 with a copy of that transcript that you do have in front
14 of you because the transcript was not available at the
15 time that I filed the return so just to get that clean on
16 the record I am moving to supplement the return with a
17 copy of the plea transcript.

18 THE COURT: Okay.

19 MS. ZMROCZEK: Certainly we have no objection to
20 that. I think that's probably needed for the Court to
21 make a decision.

22 THE COURT: All right. Ms. Zmroczek, are you ready
23 to proceed with the application?

24 MS. ZMROCZEK: I am, Your Honor. I would call
25 Mr. Boatwright.

1 Thereupon,

2 RICHARD LEE BOATWRIGHT

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

4 DIRECT EXAMINATION

5 BY MS. ZMROCZEK:

6 Q. Mr. Boatwright, how old are you?

7 A. I'm currently 51 years old.

8 Q. And where are you currently residing?

9 A. At the Department of Corrections in McCormick, South
10 Carolina.

11 Q. Do you recall the events that lead you getting to
12 the Department of Corrections, correct?

13 A. Yes.

14 Q. Okay. You had been arrested and appointed an
15 attorney?

16 A. Yes.

17 Q. Who was that attorney?

18 A. Elizabeth Fullwood.

19 Q. You and I have talked about what a PCR means and you
20 understand that you can't get a time cut, you can't get a
21 lower sentence. What a PCR, what you are asking the Court to
22 do is to vacate your plea and to resubmit to the State Court
23 so that you can continue with your trial and you and I have
24 had discussions about that, correct?

25 A. Correct.

1 Q. And that's what you're asking this Court to do?

2 A. Yes.

3 Q. And you had a unique procedure as far as when your
4 case was actually set for trial, correct?

5 A. Correct.

6 Q. Okay. Let's talk a little bit, before we talk about
7 that, I want to talk about, do you recall the day you were
8 arrested?

9 A. Uhm, it was on a Thursday. It was in the summer of
10 2013.

11 Q. Okay. And at that time had you applied for a Public
12 Defender?

13 A. Not at that time. Actually in bond hearing I was
14 denied.

15 Q. So you were denied initially?

16 A. Yes.

17 Q. How long did you wait until you received, until you
18 had a Public Defender?

19 A. I had to write the Public Defender's office to
20 testify that I didn't have nothing of any value other than a
21 pickup truck that was an old pickup truck.

22 Q. You were eventually appointed?

23 A. Yes.

24 Q. How many times did you meet with Ms. Fullwood?

25 A. Over the whole 34 month period?

1 Q. Yes.

2 A. It was well under a dozen.

3 Q. I'm sorry?

4 A. Well under 12 times.

5 Q. Well under 12?

6 A. Yeah.

7 Q. Make sure, this court reporter is taking notes, the
8 Assistant Attorney General is taking notes and the Judge needs
9 to be able hear you, too, okay?

10 A. Okay.

11 Q. So if I repeat, that's because I can't hear you.

12 A. Okay.

13 Q. You may -- I can maybe move that mic in a little bit
14 closer. That may help, too. There you go.

15 A. All right.

16 Q. What kind of things did y'all discuss in the roughly
17 less than 12 times that y'all met?

18 A. I can't really recall much of it, I mean, because I
19 would send her certain things and she wouldn't follow up with
20 them.

21 Q. What were those things that you were sending her
22 that you wanted her to follow up?

23 A. In the State of Kentucky where my ex-wife currently
24 resides and resided at that time with her two children, one of
25 her children had made a statement against another family

1 member of molesting them. This person was found, picked up,
2 he was 16 years old, he was picked up, the police questioned
3 him and then he was released with no evidence.

4 Q. And just for the education, what is your
5 understanding about why these charges arose?

6 A. The original reason these charges arose is my wife
7 wanted money and I refused to pay her \$1686.00 a month and I
8 wasn't going to pay it.

9 Q. Okay. So then after you refused payment is when --

10 A. Immediately after that I was a wanted man in the
11 state. Kentucky was hunting for me. South Carolina was
12 hunting for me.

13 Q. And how many indictments did you originally or
14 warrants were you originally charged with?

15 A. For the first year and a half I had only one
16 warrant, one indictment and that was for csc second degree.

17 Q. One indictment for csc second degree. And then what
18 happened?

19 A. Then I got exploitation of a minor third degree,
20 those two, and I did not find out that I was charged at any
21 time in the 34 months I was in custody at Lexington County
22 Sheriff's Department. I did not find out until the date of my
23 trial that I was charged with csc third degree.

24 Q. How did you learn that?

25 A. When they had the sentencing sheets there. I spoke

1 with Ms. Fullwood. I said I don't know nothing about this.

2 She said, "Well, you do now."

3 Q. And so you said that you were sending Ms. Fullwood
4 letters for information that you were requesting that she
5 investigate?

6 A. Yes.

7 Q. And a lot of that had to do with some allegations
8 that were being made by this same alleged victim out of
9 state?

10 A. It was her brother.

11 Q. Okay.

12 A. And, you know, the thing, the information, the
13 feedback I got from Elizabeth Fullwood was nobody would help
14 her in Kentucky because she wasn't part of the group up there
15 or anything like that and she had told me and reassured me
16 that she hired a detective and no detective ever come talk to
17 me, no investigator ever talked to me about any of the stuff
18 that needed to be looked into in Kentucky.

19 Q. Okay. Now, we talked about Kentucky. Are there
20 other states that may be involved --

21 A. Texas.

22 Q. -- that may have information?

23 A. Well, Texas it was just one little girl's statement.

24 Q. Okay.

25 A. A little girl by the name of Summer.

1 Q. And did you tell Ms. Fullwood about Texas?

2 A. Ms. Fullwood knew about Texas. It was all in my
3 discovery.

4 Q. It was in the stuff that you had sent her?

5 A. Yeah. No. I mean the stuff she sent me.

6 Q. Oh, in the stuff she had provided to you?

7 A. Yes.

8 Q. So there was some information in the discovery from
9 out of state?

10 A. Yes.

11 Q. Okay. But you felt like there was some exculpatory
12 information?

13 A. Correct. And also in the year of 2012, if I'm
14 correct on this, yes, 2012, I was being investigated by
15 Derrick County, that's in Kentucky, by the DSS Department
16 there by one Michael Montgomery. I was not allowed around the
17 children at that time. All right. After his investigation, I
18 was allowed around the children. They told me themselves I
19 could come up there and be around them kids and everything and
20 no problem. There was nothing they ever found. But then it
21 wasn't a year later, less than a year later I'm all of a
22 sudden been accused of all these crazy accusations.

23 Q. And you discussed your options about pleading or
24 going to trial?

25 A. Well, when I met Ms. Fullwood, she told me right off

1 the bat, the first thing she said, "I highly recommend you
2 don't ask for a speedy trial because you'll get 20 years."

3 Q. Did y'all have further discussions about that?

4 A. I just kept wondering when something was gonna be
5 done, you know?

6 Q. All right.

7 A. I basically felt like I was being just put off to
8 the side because I tried to call her office, call her office
9 and leave messages and yes, I understand that lawyers and
10 attorneys have other clientele but it would take forever for
11 me to get a response from her.

12 Q. I want to move forward to now the trial date.
13 Explain, you talked a little bit about you weren't sure what
14 you were being charged with so prior to the trial, what did
15 you and your attorney do to prepare?

16 A. She come see me about three or four times and said
17 that she may have Mona, have Mona, state error, or state right
18 with out of date warrant.

19 Q. So there was some discussion. You received a copy
20 of the transcript, right?

21 A. Yes.

22 Q. So there's some discussion in the transcript about
23 whether or not some of these alleged acts actually occurred
24 within this jurisdiction; is that correct?

25 A. Correct.

1 Q. When I say within this jurisdiction, I mean
2 Lexington County?

3 A. Lexington County. Yes, ma'am.

4 Q. Okay. And so y'all discussed what motions she was
5 gonna argue for you?

6 A. She basically told me she was gonna argue the angry
7 wife syndrome because I refused to pay my wife.

8 Q. Mr. Boatwright, I guess the question that everybody
9 wants answered is why, tell the Court why it is that after you
10 had selected a jury and pretrial motions had been argued, why
11 at that point did you change your plea from not guilty to
12 guilty?

13 A. Well, everybody that was chosen for my jury knew
14 Donny Myers or had worked for Donny Myers and at that time if
15 everybody remembers in the courtroom, Donny Myers had just
16 been arrested for DUI so people wasn't on the best of terms,
17 you know, and when my particular charges, Donny Myers being
18 the head Solicitor, I pretty well figured I was done for.

19 Q. So what discussions did you have with your attorney
20 when you decided to change your plea?

21 A. I asked her, I said what kind of time will I get?
22 She said I don't know.

23 Q. And did you have any other discussions or any other
24 influences that made you change your mind?

25 A. That morning, that Tuesday morning before I even

1 left Lexington County Sheriff's Department or the detention
2 center, the detention center, the lady officer who brought me
3 to this courthouse told me do not, and I repeat do not look at
4 your wife or your stepdaughter or you will be dealt with. She
5 has filed papers against you saying you were making
6 threatening eye contact. The only thing I was doing when they
7 had the jury behind me, they were calling these people and
8 it's natural instinct you're gonna look at who they're talking
9 to and that's all I did was look around at the people. I
10 wasn't paying my wife no attention or her daughter. I was
11 looking who this person was. I want to put a face with a name
12 so I know who the juror was, and that's all I did. And I said
13 what you mean? She said, we'll put you in a wrap vest. At
14 that point I felt intimidated because this woman worked for
15 the Sheriff's Department. She could have done it. If I would
16 have said anything and I wouldn't even say nothing in the
17 courtroom about it because I was afraid to make it that much
18 harder on me.

19 Q. That's my next question. When you did eventually
20 change your plea, the judge asked you a set of questions?

21 A. Yes.

22 Q. And you recall those questions?

23 A. Yes, ma'am. One of them was I threatened.

24 Q. Right.

25 A. And I said no.

1 Q. Why did you say no?

2 A. Because of the same situation. I grew up in this
3 county. I know how things work around here. If you got the
4 kind of charges I got, you gonna get a lengthy sentence one
5 way or the other.

6 Q. And so --

7 A. And by being threatened by that officer and that's
8 an officer and at the time I was a detainee so it would be
9 like my word against hers because naturally officers are gonna
10 have more pull than somebody who's sitting here facing
11 charges.

12 Q. And so that's why you didn't say any - that's why
13 you answered --

14 A. Yes. That's correct. That's why I answered no.

15 Q. -- the way that you answered. Okay.

16 A. Yes.

17 Q. And then after you were sentenced, did you have any
18 further contact with Ms. Fullwood? Did you ask for any
19 appeals, motion to reconsider?

20 A. No. All I asked her for was my discovery. I sent
21 it to her and I got a letter back from her, the head Public
22 Defender stating that I had gotten all of my discovery and I
23 knew my new court appointed lawyer was getting me my discovery
24 or anything that I needed.

25 Q. And that was for your PCR?

1 A. Yes.

2 Q. And all of that has been provided to you?

3 A. Correct.

4 Q. And what other complaints do you feel that the Court
5 needs to know about your attorney that rendered her assistance
6 ineffective and prejudiced you in your case?

7 A. One of the things that bothered me most particular
8 was the date in question that my wife was arrested and brought
9 to Lexington County Detention Center that the statement was
10 made that I had sexual intercourse with my stepdaughter 14
11 times in one night after drinking a case of alcohol. If she
12 would have just, if Ms. Fullwood would have just asked my
13 company, they would have supplied her with my DOT records that
14 showed on my logbook that I had gotten up the morning before
15 at 1:00 a.m. to drive from Tom's Brook, Virginia to Columbia
16 and I can do that legally, I can do that legally in 11 hours
17 and that's what I had done on that Friday morning.

18 Now, how am I supposed to supposedly have sex with a
19 minor after all that, after driving that distance, my wife
20 getting locked up, me having to try to figure out what to do
21 with two small children and me supposedly drinking a case of
22 beer and staying up until the next morning doing that?

23 Q. And you provided her with those names of those
24 people?

25 A. It was my stepdaughter. Oh, of the company. Yes.

1 I gave her the company name. Yes.

2 Q. Okay. And you understand now that that company --
3 What is your understanding now of that company and it's record
4 policies?

5 A. As far as my trucking company I don't have no idea.
6 I ain't talked to nobody in years. But it was a fact that
7 they sent my kin people a letter stating that they would help
8 in any way they could. That would be the only thing I would
9 have asked them to help me with.

10 Q. All right. Is there anything else that you think
11 the Court needs to know?

12 A. Honestly I think I deserve another trial because I
13 would go all the way through with it no matter what.

14 MS. ZMROCZEK: The Assistant Attorney General is
15 gonna ask you some questions so please answer any
16 questions that she may have, okay?

17 THE WITNESS: Okay.

18 MS. SCRANTOM: May it please the Court.

19 CROSS EXAMINATION

20 BY SCRANTOM:

21 Q. Good morning, Mr. Boatwright.

22 A. Good morning.

23 Q. The victim in this case was your 11 year old
24 stepdaughter; is that correct?

25 A. Correct.

1 Q. Okay. And did she testify during those pretrial
2 motions?

3 A. She made her opening statement. Yes.

4 Q. Was she questioned by attorneys?

5 A. Yes.

6 Q. Okay. Do you recall the sentencing phase of your
7 guilty plea hearing?

8 A. Vaguely.

9 Q. Do you recall addressing the court during that
10 sentencing phase?

11 A. Somewhat. Yes.

12 Q. Do you recall apologizing to your stepdaughter
13 during that sentencing phase?

14 A. Yes.

15 Q. Do you recall addressing your stepdaughter and
16 saying that you were glad that you had a chance to not put her
17 through anymore testimony or that you were glad that you
18 didn't have to make her testify in front of open court during
19 trial?

20 A. Yes.

21 Q. Okay. Do you remember admitting guilt during the
22 sentencing phase in addressing the court?

23 A. When the judge read off my charges, I said I was
24 guilty.

25 Q. Do you remember later telling the Court before he

1 issued your sentence that you were truly, truly sorry for what
2 you had done?

3 A. I didn't say that. What I meant, what should have
4 been said was I was truly, truly sorry that I ever got
5 involved with my wife. Well, now my current ex-wife.

6 Q. Okay. So you do remember pleading guilty in front
7 of the Court that day?

8 A. Correct.

9 Q. And you remember the charges being read to you by
10 the judge?

11 A. Correct.

12 Q. And do you remember that the judge explained the
13 elements of those charges to you?

14 A. The elements?

15 Q. Well, he would have told you how much time you were
16 facing?

17 A. He just said when the charges were read, he would
18 ask Ms. Fullwood was the sentencing zero to 20, zero to 15, or
19 zero to 10. That was it. He didn't specify, all right, I'm
20 gonna give you 55 years, Mr. Boatwright, and run them
21 consecutive, not concurrent. He didn't explain none of that
22 until after he decided what my fate was gonna be.

23 Q. But he still read out the potential for what you
24 could get?

25 A. Ms. Fullwood did. Yes.

1 Q. Okay. And you still decided to plead guilty at that
2 point, correct?

3 A. Correct.

4 Q. Okay. And the judge explained to you the rights
5 that you were waiving by entering that guilty plea, correct?

6 A. I'm vaguely familiar with it. I mean vaguely
7 remember it.

8 Q. And you understand agreeing that you were
9 relinquishing those rights by pleading guilty?

10 A. I can't remember what the rights were. I gave up.

11 Q. Do you understand that you gave up your right to
12 continue with the trial that you had already begun by pleading
13 guilty that day?

14 A. I understood that. Yes, ma'am.

15 Q. Okay. Did you object to the statement of the facts
16 that was read out during the guilty plea?

17 A. I didn't know at the current time that I could do
18 that.

19 Q. Okay. Do you remember the judge asking you or your
20 attorney after the facts were read if they agreed with the
21 statement of the facts?

22 A. I remember him asking, addressing Ms. Fullwood with
23 it but not me.

24 Q. Okay. Did you take any moment at that time to ask
25 to step away with your lawyer and discuss those facts?

1 A. No. I'm ignorant of the law. That's part of the
2 big reason that I did take the plea.

3 Q. Okay. Now, Ms. Fullwood spent at least a half day
4 arguing pretrial motions on your behalf; is that correct?

5 A. Correct.

6 Q. Did she challenge not one but two search warrants
7 that were issued in this case?

8 A. Correct.

9 Q. Okay. Do you remember whether she discussed with
10 you any right to appeal the guilty plea?

11 A. At the moment I can't recall.

12 Q. Do you remember during the guilty plea hearing when
13 the judge informed you that you had 10 days to appeal?

14 A. He might have said it. I mean, I don't really
15 remember. It was such, that was such a traumatic time for me
16 in my life because anybody looks at my back record, I have
17 never been accused of anything like this in the least and for
18 all this to come up, I mean, the most I have had is traffic
19 violations.

20 Q. Okay. Do you remember Ms. Fullwood creating a case
21 for you in mitigation that talked about your prior record or
22 lack of prior record?

23 A. Correct.

24 Q. Okay. Do you remember her telling the judge about
25 your family history and the circumstances from where you

1 came?

2 A. Correct.

3 Q. And she did all that in mitigation in hope of a
4 lesser sentence, correct?

5 A. Yes.

6 Q. Do you remember the judge during your guilty plea
7 asking if you were satisfied with your lawyer?

8 A. Yes.

9 Q. Do you remember telling him that you were?

10 A. Yes.

11 Q. Okay. Were you under any force of threat or duress
12 to plead guilty that day?

13 A. I considered what that deputy done to me down there
14 at the jail as a threat.

15 Q. Did you report that to anyone?

16 A. I didn't know at the time I could have and plus like
17 I said, like I stated earlier, that's a Lexington County
18 deputy sheriff. Me, I'm a man that was facing four charges.
19 It wouldn't hold water basically if I said that officer right
20 there threatened me and here I am in front of a judge facing
21 55 years for a heinous crime. They gonna take that officer's
22 word over mine that quick (indicating.)

23 Q. Do you recall any handwritten evidence that would
24 have been presented at the trial?

25 A. There was some from a man named Mark McDaniel.

1 Q. Okay. Do you remember Ms. Fullwood making a
2 pretrial motion to exclude a handwriting analysis so that that
3 evidence could not be presented at trial against you?

4 A. I don't remember that.

5 MS. SCRANTOM: I don't have any further questions
6 for you at this time. Thank you.

7 MS. ZMROCZEK: Very briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. ZMROCZEK:

10 Q. She asked -- We talked about the threats and you
11 said that you feared for your safety because of that
12 officer?

13 A. Correct.

14 Q. When you're around these officers, are you ever
15 allowed to be by yourself?

16 A. You mean like in Lexington County?

17 Q. Right.

18 A. No.

19 Q. And are you able to defend yourself in any way?

20 A. You could defend yourself but where those statements
21 were made were in the booking office of the Lexington County
22 Sheriff's Department or the department.

23 Q. And she asked you about your apologies to the
24 victim. Explain why you were giving those apologies?

25 A. I more or less figured maybe the judge would have

1 went a lot lighter on me even though I know I hadn't committed
2 the crimes that I was being convicted of, that I was pleading
3 guilty to. But, of course, I was under stress. I had been
4 threatened and I was basically backed in a corner with nowhere
5 to go because it looked like a no win situation so instead of
6 putting everybody through that and having my stepdaughter put
7 through that at the time I decided to take the guilty plea.

8 Q. So the divorce, the divorce --

9 A. Papers.

10 Q. -- allegations or the marriage between you and your
11 wife was that obviously not amicable? How long were y'all
12 together?

13 A. We were together before she got arrested and
14 married, we wasn't even together a year. About three days
15 short of a year.

16 Q. Okay. And so this was not your child?

17 A. No. Neither one of her children were mine.

18 Q. But when she was arrested, who was set to take care
19 of them?

20 A. Her father or stepmother and an uncle had come from
21 Kentucky. They were supposed to show up on that Friday. They
22 did not show up until late Saturday night, early Sunday
23 morning.

24 Q. So where were they until then?

25 A. The children were with me that whole time.

1 MS. ZMROCZEK: That's all I have. Thank you.

2 MS. SCRANTOM: No recross.

3 THE COURT: You may step down.

4 MS. ZMROCZEK: Your Honor, that's the only witness
5 that I have.

6 THE COURT: Okay.

7 MS. SCRANTOM: The respondent would call Elizabeth
8 Fullwood.

9 Thereupon,

10 ELIZABETH FULLWOOD

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

12 DIRECT EXAMINATION

13 BY MS. SCRANTOM:

14 Q. Good morning, Ms. Fullwood.

15 A. Good morning.

16 Q. Thank you for being here. How long have you been
17 practicing law?

18 A. Uhm, 39 years.

19 Q. Where do you currently practice?

20 A. Lexington, South Carolina.

21 Q. Are you in the Public Defender's Office?

22 A. I am. I have been there since 1991.

23 Q. Where did you practice before then?

24 A. Well, I worked for the Appellate Defense Office for
25 a number of years which is now part of the Commission on

1 Indigent Defense.

2 Q. Yes, ma'am. How did you become involved in Mr.
3 Boatwright's case?

4 A. Well, my office was appointed to represent him in
5 his Lexington County charges and I was the lawyer on the
6 case.

7 Q. Okay. Do you practice a significant amount with
8 criminal sexual conduct cases? Is there any focus area of
9 your practice with them or was this just kind of assigned out
10 in rotation?

11 A. Uhm, a little of both. A little of both. I have
12 tried and represented a number of people charged with criminal
13 sexual conduct all kinds but in my office we don't have people
14 who specialize in this or that.

15 Q. Okay. So you have handled these type of charges
16 before?

17 A. Certainly.

18 Q. Do you remember what the evidence was against
19 Mr. Boatwright in this case?

20 A. Yes. In just very general terms.

21 Q. Yes, ma'am.

22 A. It was the testimony of his stepdaughter, there was
23 this very odd situation where a fellow inmate had somehow
24 talked him into giving that inmate's daughter whom the inmate
25 was accused of sexually assaulting Mr. Boatwright's property

1 and that included a computer that ended up having pictures of
2 a sexual nature of the stepdaughter on it and there were other
3 things but those were the two major things.

4 Q. Okay. Were there a number of acts alleged to have
5 happened over a long period of time in this case?

6 A. That's right.

7 Q. So was there a delayed disclosure by the
8 stepdaughter at any point?

9 A. Yes. Right. It was not at one incident and then an
10 immediate exposure. It was cumulative over a period of
11 years.

12 Q. Geographically had they lived in different states?

13 A. Yes. Kentucky, West Virginia. One of those states.
14 Texas and South Carolina.

15 Q. Did you share the discovery in this case with Mr.
16 Boatwright?

17 A. I did.

18 Q. How many times would you say that you met with
19 him?

20 A. I can tell you --

21 Q. Okay.

22 A. -- and give you dates. August 13th, 2013; November
23 26th, 2013; March 18, 2014; June 30, 2014; September 8, 2014;
24 January 22, 2015; April 30th, 2015; July 6th, 2015; telephone
25 conversation August 8, 2015; face-to-face August 12th, 2015;

1 December 22, 2015; and I have got to go to some notes over
2 here in the file. When I get closer to trial, sometimes I
3 stop taking notes on the time sheet of the actual meetings
4 with the client. Okay. April 14, 2016; April 18, 2016; April
5 23, 2016.

6 Q. Okay. Trial began April 25th just two days later
7 2016?

8 A. Correct.

9 Q. And he pled the next day. So you met with him over
10 a dozen times. You shared the discovery with him. Do you
11 remember any issues with the Solicitor's Office getting
12 discovery?

13 A. There usually are but nothing that comes quickly to
14 my mind.

15 Q. Nothing that was withheld that you know of or
16 anything like --

17 A. Not that I know of.

18 Q. -- that you had to fight to get a hold of? Did you
19 discuss the factual basis for the charges with your client?

20 A. Oh, of course.

21 Q. Did you --

22 A. On many occasions.

23 Q. Did you discuss the pros and cons of going to trial
24 versus potentially accepting an offer for a guilty plea?

25 A. Yes.

1 Q. How did those discussions go? Was your client
2 cooperative and receptive to what you were telling him?

3 A. I would say he was. By cooperative he would talk
4 about his case. He would be on point. He would not blurt out
5 foolish things like I don't see how they can even think to
6 have evidence on me. He wanted to work on the case and focus
7 on the evidence and he was rational and he would talk about it
8 intelligently and would listen to my input. That doesn't
9 necessarily mean he agreed with everything I said to him but
10 he was always very courteous and I guess engaged in helping to
11 defend his case.

12 Q. What is your assessment of the strength of the
13 evidence in this case?

14 A. Well, prior to the trial starting, it didn't, it
15 didn't look like the strongest case in the world because there
16 was the delayed disclosure. There were some inconsistencies
17 and some odd things and then that whole thing about the
18 computer was just a very bizarre situation and these were very
19 bizarre people who had come forth with this evidence. After
20 we had this pretrial hearing, it turned out that the juvenile
21 victim was an extraordinary witness. She was just very
22 poised, very good, just surprisingly so. A much better
23 witness than most adults. I was very surprised given her
24 background that she would be capable of testifying the way she
25 did and in the manner that she did.

1 Q. So based on that performance would you say that the
2 State's case maybe appeared stronger to you after those
3 pretrial motions?

4 A. Yes.

5 Q. And going through those pretrial motions it looks
6 like you objected to two search warrants or tried to exclude
7 those?

8 A. If it's in the transcript, then that's what I did.
9 I tried to raise everything I could possibly raise.

10 Q. Do you remember one of the warrants being challenged
11 on the basis that maybe the return was done untimely on the
12 warrant?

13 A. I don't have any independent recollection of that
14 but if that's what I said, then that's what happened.

15 Q. Okay. But you were not successful in your
16 suppression motion?

17 A. Unfortunately, no. We did not win one of them I
18 don't think.

19 Q. Is it fair to say that you challenged a lot of the
20 evidence and all of that was gonna come in?

21 A. Yeah.

22 Q. Do you remember advising Mr. Boatwright of his right
23 to appeal either from the trial or from the plea?

24 A. I do not normally advise people who plea of their
25 right to appeal. If they ask about it, I'll certainly tell

1 them and if they request an appeal, I'll file one for them.

2 Q. Did Mr. Boatwright request one?

3 A. No.

4 Q. Okay. Do you feel like there was any factual basis
5 in the plea that an appeal could have been taken from?

6 A. No.

7 Q. You didn't recognize any defects with the plea
8 colloquy?

9 A. No.

10 Q. Okay. Whose decision ultimately was it to plead
11 guilty?

12 A. Mr. Boatwright's.

13 Q. How did those discussions develop over time? Was
14 that a theory that maybe you had discussed before you picked a
15 jury in this case?

16 A. Well, the topic of plea would have come up on and
17 off throughout our discussions. Once he decided he wanted to
18 go trial he wanted to go to trial until the day after we had
19 the plea hearing, then he wanted to plead guilty.

20 Q. Did your client provide you with a version of the
21 facts that you could have presented in his defense?

22 A. Well, he's correct basically stating that the
23 defense was that the mother was bitter because he had just cut
24 off monetary support for her so she got the child to say it to
25 get him back. Of course, I planned on cross examination to

1 try to bring out and elicit facts that might support that
2 theory.

3 Q. Okay. What was your client's reaction after the
4 plea hearing?

5 A. I don't really remember. Disappointed I'm sure.

6 Q. Were there any other plea offers before you went to
7 trial that he had rejected?

8 A. I'm sure there were but I do not recall what it
9 was.

10 Q. Okay. You felt like your client had an
11 understanding of the proceedings in this case?

12 A. Without a doubt he did.

13 Q. And he was able to assist in his defense?

14 A. He did assist in his defense.

15 Q. Do you feel like you had sufficient time to prepare
16 this case for trial?

17 A. I do.

18 Q. Did you do any independent investigation in this
19 case and follow any leads that Mr. Boatwright may have given
20 you?

21 A. Yes. I did.

22 Q. Could you tell us a little about that?

23 A. I want to point out that what I have got up here is
24 just the base file. This file was two accordion folders thick
25 so I don't have every note that I took.

1 Q. For the record, that file is what, maybe at least
2 three inches?

3 A. Three inches. Two at most.

4 Q. Thank you.

5 A. But I'm talking about two six to eight inch thick
6 files, all right? I do have on my time notes that I contacted
7 a James Richardson who was a private investigator in the case.
8 Looks like we had conferred with one another. I don't have
9 any reports from him in the portion of the file that I have
10 but his job would have been to look for information about
11 Kentucky or West Virginia about what he thought was going on
12 in those states. I consulted with Al Johnson concerning that
13 computer and how those ladies would have been able to get into
14 that computer past the password and into the content. I
15 consulted with Mickey Dawson about the handwriting analysis
16 and we did serve a subpoena on his employer, a company called
17 TLC about work records or logbooks. In response to the
18 subpoena we got this letter from the company saying that it
19 did not have logbooks, electronic logbooks, time cards or any
20 other documents that would have established Mr. Boatwright's
21 working hours; that he was an over the road trucker, paid a
22 flat fee for the work he did and that this company submitted
23 payroll on a spreadsheet that lists the flat amount rather
24 than the actual hours when their employees work. The letter
25 went on to say it's not a motor carrier and is not required to

1 keep logbooks or electronic logbooks.

2 Q. So you could not corroborate the alibi that he
3 testified to?

4 A. Yes. I mean no. I could not.

5 Q. Just for clarity, where did the computer come
6 from?

7 A. It was Mr. Boatwright's property. I believe it was
8 in his house that was just vacant once he had been arrested if
9 I remember right.

10 Q. Okay. Did Mr. Boatwright report any threats to you
11 once this trial began?

12 A. No.

13 MS. SCRANTOM: I don't have any further questions at
14 this time. Thank you.

15 CROSS EXAMINATION

16 BY MS. ZMROCZEK:

17 Q. Do you have a copy of the trial and plea
18 transcript?

19 A. No. I don't.

20 MS. ZMROCZEK: And, Your Honor, I'm referring to
21 page 48.

22 BY MS. ZMROCZEK:

23 Q. I'll just give you my copy.

24 A. Which line?

25 Q. Generally.

1 A. Generally.

2 Q. Generally on 48. Do you recall the Assistant
3 Attorney General asked you questions about any issues or
4 problems with discovery and if I misquote you, please correct
5 me, I thought you said often times there are problems but you
6 couldn't remember any specifics this time?

7 A. Mm-hmm. But now that you pointed it out to me that
8 apparently we had found out that there were out of state
9 mental health records for the victim. And let's see.

10 Q. You actually asked for a continuance based on
11 that?

12 A. I may have. And I think, I think what the problem
13 was we had just gotten them.

14 Q. And were those sealed?

15 A. They were sealed.

16 Q. The transcript continues up there if you're looking.

17 A. Yes. It continues about how we wanted the Court to
18 examine the contents in camera and as I recall the Court ended
19 up believing that some of the material would be appropriate
20 for disclosure just for the purpose of defending the case. I
21 say here, let's see, I guess the previous Wednesday we emailed
22 the law clerk saying we were going to ask for a continuance.

23 Q. So the Wednesday right before - the Wednesday before
24 the trial was to begin you had received some pretty what could
25 be, we don't know but could have been helpful evidence and the

1 judge, maybe he had looked at it, but you had not gotten to
2 see that, correct, because it was sealed?

3 A. I think I was saying that the week before I wanted a
4 continuance because of the records and I guess we made the
5 motion on Wednesday so, and it got denied and the judge signed
6 an order authorizing funds to pay for them.

7 Q. And I guess when I read that it was a little bit
8 confusing to me, too. That's why I thought maybe giving you
9 the -- And you're still on pages 48 and 49; is that correct?

10 A. I'm on 49 now.

11 Q. Okay.

12 A. Well, it looks like I was renewing my motion for a
13 continuance over those records. I think eventually the Court
14 looked at them I think.

15 Q. Okay. And in your notes you keep track of when you
16 saw him which if I was counting, it was around 14 times.
17 Would you have also kept any plea offers in that same note
18 area?

19 A. Sometimes. Sometimes not. I was sort of scanning
20 through it today and I did not see it written down but
21 generally in these csc cases a plea offer is made.

22 Q. Okay. Generally it is, right?

23 A. Yeah.

24 Q. And you actually provided me your whole file?

25 A. Right.

1 Q. And I think you referred to the two folders,
2 right?

3 A. Mm-hmm.

4 Q. You had them labeled, correct?

5 A. That's right.

6 Q. So these were your entire files, right?

7 A. Right.

8 Q. So if there would have been a plea offer, it would
9 have either been in the manilla folder or one of these
10 folders, right?

11 A. Not necessarily because not all Solicitors write
12 down their plea offers, all right? And sometimes it would be
13 on the notes I keep during appearances which I do not keep
14 with the files because, of course, they involve multiple
15 cases.

16 Q. Okay. But as you testified today do you have any
17 recollection on any plea offers that were made?

18 A. No.

19 Q. Okay. And you discussed in your mitigation how
20 Mr. Boatwright was not, I hate to use this term, not a
21 sophisticated criminal. He wasn't a frequent flyer in this
22 courtroom or any courtroom, was he?

23 A. No.

24 Q. So and you said that your discussions were very
25 factually based and intelligent when you would have them with

1 him, correct?

2 A. That's right.

3 Q. And he did not ask for a motion to reconsider or to
4 appeal?

5 A. No.

6 Q. Okay. And that's not something that you file
7 typically unless they ask for it, unless the client asks for
8 it specifically?

9 A. Not from a guilty plea. No.

10 Q. Okay. You were able to pull some records regarding
11 the nature of Mr. Boatwright and his now ex-wife's
12 relationship, right?

13 A. Yes. Some.

14 Q. And that is what you were using to develop your
15 trial theory, correct?

16 A. That's right.

17 MS. ZMROCZEK: Thank you. No further questions.

18 REDIRECT EXAMINATION

19 BY MS. SCRANTOM:

20 Q. Quickly just to clear up the mental health records.
21 You asked for a continuance the week before the trial because
22 there were mental health records from the victim that became
23 available from Kentucky; is that correct?

24 A. I think so.

25 Q. Okay. And the basis for your motion was that you

1 did not have time to request funding and for an expert to
2 review those mental health records. Does that ring a bell?

3 A. The money part is. The defense expert is not
4 ringing a bell. I think we had to pay these people money to
5 get the records is what I think.

6 Q. And the judge took those records and read them
7 overnight and then ruled on the motion I think the next day?

8 A. That's what I remember but the transcript would tell
9 you for sure.

10 Q. Okay. Do you remember what was in those records?

11 A. It was the girl's mental health records.

12 MS. SCRANTOM: Okay. That's all I have. Thank
13 you.

14 THE COURT: Step down. Anything else for the
15 Boatwright matter?

16 MS. SCRANTOM: Not from the respondent.

17 THE COURT: Anything from the applicant?

18 MS. ZMROCZEK: Not from the applicant.

19 THE COURT: I'll issue an order.

20 MS. SCRANTOM: Thank you.

21 MS. ZMROCZEK: Thank you.

22 WHEREUPON, THE HEARING WAS CONCLUDED.

23

24

25

1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON)

4

5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of Common Pleas in and for the
10 State of South Carolina on the 21st day of February, 2018.

11 I FURTHER CERTIFY that the forgoing 38 pages
12 constitute a true and accurate record of said proceedings.

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

15 IN WITNESS WHEREOF, I have hereunto set my hand at
16 Lexington County, this 24th day of December, 2018.

17

18

By:s/ Steven E. LeBlanc

19

20

Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.

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22

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED
IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT
2018 SEP 13 11:10:51

Richard Lee Boatwright, #367956,

LIS. J. L. COMER
CLERK OF COURT C/A No. 2017-CP-32-01186
LEXINGTON SC

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Richard Boatwright (Applicant) on April 6, 2017. The Court convened for an evidentiary hearing in this matter on Wednesday, February 21, 2018, at the Lexington County Courthouse in Lexington, South Carolina. Applicant was present at the hearing and represented by appointed counsel Aimee J. Zmroczek, Esquire. Assistant Attorney General Caroline Scrantom appeared on behalf of Respondent.

PROCEDURAL HISTORY

A. The Underlying Prosecution

Applicant is presently in the custody of the South Carolina Department of Corrections and housed at McCormick Correctional Institution. The Lexington County Grand Jury indicted Applicant in May 2014 for criminal sexual conduct (CSC) with a minor, second degree; and CSC with a minor, third degree. On September 14, 2015, the Lexington County Grand Jury returned additional indictments for two separate charges of sexual exploitation of a minor, third degree. Each charge concerned the same victim, who was Applicant's fifteen-year-old stepdaughter.

Elizabeth Fullwood of the Eleventh Circuit Public Defender's Office represented Applicant. Following jury selection and a day of pre-trial motions, Applicant pled guilty to each

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above-named charge on April 26, 2016. The Honorable R. Knox McMahon presided. Suzanne Mayes of the Eleventh Circuit Solicitor's Office appeared on behalf of the State.

Judge McMahon sentenced Applicant to twenty years' incarceration for CSC with a minor, second degree; fifteen years for CSC with a minor, third degree; and ten years for each of two charges of sexual exploitation of a minor, third degree. Applicant's sentences were issued to run consecutively. He was credited for time served.

Applicant did not pursue a direct appeal of his conviction and sentence.

B. The Instant PCR Action

Applicant alleges that he is being held in custody unlawfully and seeks relief premised upon the following reasons, enunciated in questions 10 and 11 of his *pro se* PCR application:

Ineffective assistance of counsel:

- (a) Failure to investigate potentially exculpatory evidence
- (b) Failure to discover potentially exculpatory evidence
- (c) Failure to investigate or discover potentially exculpatory evidence that would have led counsel to change his recommendation as to the p[lea].

The State made its Return to these allegations on or about June 12, 2017.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

At the evidentiary hearing, this Court had before it the *pro se* PCR application and the State's Return, which included as attachments the Lexington County Clerk of Court records pertaining to Applicant's indictments and sentencing and Applicant's South Carolina Department of Corrections records. This Court also had before it the transcript of Applicant's guilty plea and sentencing, which Respondent formally incorporated as part of the record at the outset of the evidentiary hearing.

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony

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accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court denies the application and, in doing so, makes the following findings based upon all of the probative evidence presented.

A. Standard for Post-Conviction Relief

When an applicant "enters a plea on the advice of counsel, [he] may only attack the voluntary and intelligent character of the plea" by fulfilling a two-prong test established regarding proof of ineffective assistance of counsel. *Frasier v. State*, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing *Hill v. Lockhart*, 474 U.S. 52, 58-59, 106 S.Ct. 366, 370 (1985) (adopting seminal ineffective assistance of counsel standard from *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052 (1984), and applying to cases resolved via guilty plea)). "A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying two prongs: first, evidence that counsel's performance was deficient; and second, evidence that the applicant was prejudiced by that deficiency." *Stalk v. State*, 383 S.C. 559, 560-61, 681 S.E.2d 592, 593 (2009) (citing *Hill v. Lockhart*, *supra*). In regards to the first prong, "[t]he proper measure of attorney performance remains reasonableness under prevailing professional norms." *Strickland v. Washington*, *supra* at 688, 104 S.Ct. at 2065. In order to satisfy the prejudice requirement, "the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pled guilty and would have insisted on going to trial." *Hill v. Lockhart*, *supra* at 59, 106 S.Ct. at 370.

At all times during the proceeding, the Applicant maintains the burden of establishing that he is entitled to relief. *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007). Moreover, the proceeding is coupled with "a strong presumption that counsel rendered adequate

assistance and exercised reasonable professional judgment in making all significant decisions in the case." *Morris v. State*, 371 S.C. 278, 282, 639 S.E.2d 53, 55 (2006). "Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." *Strickland*, 466 U.S. at 689, 104 S.Ct. at 2065.

A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Strickland*, 466 U.S. at 697, 104 S.Ct. at 2069.

B. The Merits of the Ineffective Assistance Allegation

Applicant generally alleges plea counsel rendered ineffective assistance in her investigation of Applicant's case. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Lounds v. State*, 380 S.C. 454, 460, 670 S.E.2d 646, 649 (2008); see also *McKnight v. State*, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008) ("A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State."). "[W]hile the scope of a reasonable investigation depends upon a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and

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circumstances of the case.” *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 597 (2007). Our courts have additionally cautioned not to lose sight “of the reasonableness standard regarding counsel’s duty to investigate. *Edwards v. State*, 392 S.C. at 456, 710 S.E.2d at 64 “Indeed, it would be an absurdity to require criminal defense lawyers to interview *every* potential witness when they can articulate reasonable grounds not to. When counsel makes such a reasonable decision, he will have fulfilled the duty he owes to his client.” *Id.* at 457, 710 S.E.2d at 64–65.

At the evidentiary hearing, Applicant testified that he was arrested during the summer of 2013 and met with appointed counsel, Beth Fullwood, less than a dozen times over the course of 34 months. He proceeded to trial, then pled, in April 2016. He testified that counsel was not quick to respond to his inquiries and that she advised him against requesting a speedy trial because it would result in a 20-year sentence. He testified there were three to four pre-trial meetings. Applicant testified that his counsel said she hired a detective but no detective came to speak with him.

Regarding the facts of his case warranting investigation, Applicant testified that he did not have an amicable end to his marriage. According to Applicant, he refused to pay his ex-wife and in turn became a wanted man for the acts to which he pled. Applicant acknowledged that his stepdaughter was the victim in his case. His testimony established that while married to the victim’s mother, they all lived together in Kentucky prior to moving to South Carolina. Applicant testified that the Kentucky Department of Social Services had previously investigated him in 2012, but halted the investigation. Applicant testified that at some point his ex-wife was also arrested. He indicated he wanted his attorney to look into these events in preparation of a defense. Applicant, a former truck driver, testified that the factual allegations concerned him because his trucking logbook should have shown that he was driving during one of the alleged

instances of CSC with a minor. Applicant testified that his trucking company indicated they would assist in his defense.

This Court finds Applicant's testimony concerning counsel's investigation and representation not credible. Applicant advised the plea judge that he was totally and completely satisfied with counsel at the time of the plea, (Plea Tr. pp. 161-62), a representation he acknowledged during his PCR testimony. Moreover, Applicant's testimony is contradicted by that of his counsel, who demonstrated at the evidentiary hearing that she kept detailed records of her preparation of Applicant's case.

This Court finds applicable the strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in his representation of Applicant at all stages. *Ard v. Catoe*, 372 S.C. at 331, 642 S.E.2d at 596 (citing *Strickland, supra*). "[W]hen counsel articulates a *valid* reason for employing a certain strategy, such conduct generally will not be deemed ineffective assistance of counsel. The validity of counsel's strategy is viewed under an 'objective standard of reasonableness.'" *Lounds v. State*, 380 S.C. at 462, 670 S.E.2d at 650 (emphasis in original). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. *Strickland*, 466 U.S. at 689, 104 S.Ct. 2052. Any post-conviction relief court must be "wary of second-guessing trial counsel's tactics." *Edwards v. State*, 392 S.C. 449, 457, 710 S.E.2d 60, 64 (2011); *Whitehead v. State*, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992). "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing *Caprood v. State*, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

This Court finds counsel's PCR testimony credibly establishes that her performance in preparing and presenting Applicant's defense was not objectively unreasonable in any manner. *Strickland, supra* at 688, 104 S.Ct. at 2065. Counsel has been practicing criminal defense for almost 40 years and has been with the Eleventh Circuit Public Defender's Office since 1991. Counsel testified she had previously defended clients charged with CSC. Counsel's testimony credibly established that she in fact met with Applicant or spoke with him over the phone about his case a recorded 14 times. Counsel brought with her to the evidentiary hearing a small portion of Applicant's criminal defense file, which she testified was comprised of three larger files in addition to the folder she brought to the stand to refresh her recollection. She did not recall any plea offers being made nor did she recall any unusual issues obtaining discovery from the State.

Counsel credibly testified as to her recollection of the facts of Applicant's case. Counsel testified that this was a case of delayed disclosure by the stepdaughter victim of a number of acts which occurred over a series of years. She testified that there was a quantity of sexual images found on Applicant's computer, including images of the stepdaughter. Counsel established that as part of her representation of Applicant she discussed the nature of his charges with and the factual basis of those charges many times. She discussed the possibility of a guilty plea with her client. Counsel credibly testified that Applicant was engaged in the defense of his case and would rationally and intelligently discuss it with her, which this Court finds to be corroborated by Applicant's own PCR testimony.

Counsel testified as to the specific type and amount of pre-trial investigation conducted in Applicant's case. She testified that her investigation was directed by information divulged during conversations with her client. Counsel testified that she obtained Applicant's divorce records as part of her investigation. Counsel testified that she hired private investigator to locate records

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from Applicant's previous states of residency that may assist in a defense. Counsel testified she retained Al Johnson to independently examine the contents of the computer seized from Applicant as part of the State's investigation but his examination failed to uncover any exculpatory data. Counsel testified that she subpoenaed Applicant's former trucking employer for logbooks but received in response a letter stating that the company did not have any electronic logbooks or logs pertaining to Applicant, and that he was employed at a flat rate. Counsel testified she consulted with a handwriting analyst Mickey Dalton regarding discovery in this case. Counsel testified that she requested the victim's own mental health records from Kentucky, which were produced under seal shortly before trial. Counsel moved to continue the trial to further examine these records but the continuance was denied. Counsel also sought *in camera* review of those mental health records by the trial court as a means of gaining access to impeachment material on the victim.

In regards to counsel's presentation at the trial and plea proceedings, testimony presented at PCR and the plea transcript demonstrate that counsel argued a series of pre-trial motions prior to the guilty plea in an attempt to suppress the evidence in anticipation of trial. None of those motions were successful and a wealth of photographic and other documentary evidence concerning the totality of the charges would be introduced by the State at Applicant's jury trial. At PCR, counsel credibly recalled the veracity of the victim's pre-trial testimony. Counsel testified that pre-trial she felt there were a number of inconsistencies pertaining to the victim that she could utilize for impeachment at trial. However, the victim's pre-trial testimony proved credible and extraordinary in that the victim was poised for her age. Counsel recalled the victim testifying in mature, impressionable manner. After the victim's pre-trial testimony, counsel's

assessment of the strength of the case changed. Counsel testified she felt the State's case was strong.

This Court accordingly finds that counsel not only conducted a rational and thorough pre-trial investigation into Applicant's case, but additionally initiated a vigorous defense during the pre-trial phase as exhibited in the transcript of Applicant's criminal proceedings. This Court finds counsel credibly established that took care to corroborate any defense or alibi presented by her client for the acts charged and was not successful even after a thorough investigation. This Court finds counsel's investigation into the facts giving rise to the charges essentially dead-ended at each turn. This Court finds Applicant has failed to demonstrate a deficiency on the part of trial counsel. *See Strickland, supra; Hill v. Lockhart, supra.*

This Court also finds Applicant was not prejudiced by counsel's representation. Applicant has failed to produce any additional exculpatory evidence during the PCR proceeding. Where a PCR applicant fails to proffer any evidence at PCR in support of the alleged deficient investigation and preparation of defense, that applicant wholly fails to meet his burden of showing that he was prejudiced by the alleged omission. *Edwards v. State*, 392 S.C. at 459, 710 S.E.2d at 66; *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995); *Cherry v. State*, 300 S.C. 115, 118-19, 386 S.E.2d 624, 625-26 (1989). Applicant has not demonstrated a reasonably likelihood that had counsel done some additional deed or pursued some additional angle in pursuit of his defense that he would have proceeded with trial instead of pleading guilty. *Hill v. Lockhart, supra* at 59, 106 S.Ct. at 370. Nor, based upon the evidence in the plea record, has Applicant established that had he continued with trial that it would have resulted in a not guilty verdict. The plea record delineates a great weight of admissible evidence which supported the charges against Applicant, including detailed handwritten confessions, photographs from his

computer, and victim testimony regarding the acts charged and prior bad acts ruled admissible by during pre-trial motions. (Plea Tr. pp. 52-149, 162-71).

The ineffective assistance allegation is **DENIED**.

C. Knowing Intelligent and Voluntary Guilty Plea Made

This Court further finds that Applicant entered a knowing, intelligent and voluntary guilty plea, and finds not credible any contrary assertion made by Applicant during the course of the evidentiary hearing in this matter. Applicant testified at PCR that he changed his plea to guilty after the completion of post-trial motions because the Circuit Solicitor at the time had just been arrested for DUI. This Court finds this particular point irrelevant to the determination before it.

Applicant also testified that he changed his plea to guilty because the deputy who transported him to the courthouse that morning warned him not to look at his wife of stepdaughter. The plea court gave Applicant an opportunity to address whether he had complaints against any officers in his case and Applicant answered no. (Plea Tr. p. 162). Moreover, trial counsel testified at PCR that Applicant did not report any alleged threat to her. Applicant testified at PCR he believed he deserved another trial. He also testified at PCR that he was not aware of any charge for CSC with a minor, third degree, until he was he was presented with his sentencing sheets. As expounded upon below, this Court notes that Applicant signed each sheet, indicating he wanted to plead guilty, and did so of his own free will.

A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a defendant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 97 S. Ct. 1621 (1977)). To find a guilty plea is

voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. *Boykin v. Alabama*, 395 U.S. 238, 89 S. Ct. 1709 (1969). "In addition to the requirements of *Boykin*, a defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." *Anderson v. State*, 342 S.C. 54, 57, 535 S.E.2d 649, 651 (2000). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000). Therefore, statements made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from their truth. *Blackledge v. Allison*, *supra*; *Crawford v. United States*, 519 F.2d 347 (4th Cir. 1975).

This Court finds Applicant was advised of the charges and potential sentences in advance of the plea, finding very credible counsel's testimony regarding her preparation and advice concerning those charges. Counsel established that she had a number of rational communications with her client prior to trial concerning his charges, the pursuit of potential defenses, and the proceedings to follow. The plea transcript corroborates that counsel did address with her client the elements of the charges pled and the benefit of accepting the plea bargain, as well as the rights waived by deciding to withdraw from the ongoing trial and enter the plea. The plea court delivered a complete colloquy, and Applicant acknowledged at every stage that he wished to so plead. Applicant was specifically advised of each potential maximum sentence. This Court finds the record reflects Applicant was advised of the waiver of his constitutional rights by the plea court, including his right to continue with trial by jury. (Plea Tr. pp. 150-72).

This Court finds meritless any contention by Applicant that he did not plead guilty knowingly and voluntarily. Applicant decided to so plead following the denial of each pre-trial challenge to the evidence that would be presented. Applicant also pled guilty after pre-trial testimony by his stepdaughter who was the victim in this case. During sentencing, Applicant took responsibility for his actions and apologized to the victim directly. He indicated during this exchange that he did not want her to have to testify in front of the jury. (Plea Tr. pp. 176-77). At the PCR hearing, Applicant testified that he issued the apology in hopes that it would lead to a lighter sentence.

"Courts naturally look with a jaundiced eye upon any defendant who seeks to withdraw a guilty plea after sentencing on the ground that he expected a lighter sentence." *United States v. Crusco*, 536 F.2d 21, 24 (3rd Cir. 1976); see *Daniel v. Cockrell*, 283 F.3d 697, 703 (5th Cir. 2002) (absent a showing of force of threat by some other actor, the "guilty plea is not rendered involuntary by the defendant's mere subjective understanding that [he] would receive a lesser sentence . . ."). Contrary to Applicant's PCR testimony, "[t]he colloquy establishes that [Applicant] did not have any misconceptions regarding sentencing." *Roddy v. State*, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (reversing PCR court's finding of an involuntary guilty plea). A defendant's subjective hope of a lesser sentence is unavailing. Not only is the plea record void of any threat in Applicant's case, but this Court finds Applicant failed to establish at PCR that he pled guilty by force of any improper influence.

This Court finds Applicant failed to meet his burden in regards to any allegation of an involuntary guilty plea. *Blackledge v. Allison*, *supra*. The record reflects Applicant admitted his guilt to the plea court after being fully informed of the nature and consequences of his plea by his attorney and by the plea court. The record further reflects and this Court further finds Applicant

entered his plea on his own accord, while acknowledging the waiver of his right to continue with his jury trial. Therefore, any allegation that Applicant did not plead guilty voluntarily is **DENIED.**

CONCLUSION

Upon consideration of the testimony presented at the evidentiary hearing, a review of the pertinent portions of the file made part of this record by way of attachment to the State's Return, the guilty plea and sentencing transcript, and the applicable case law, the undersigned finds that Applicant has failed to meet his burden of establishing any constitutional deprivation which would warrant relief. Even if Applicant had put forth sufficient evidence that trial counsel's performance was in some way unreasonable under prevailing professional norms, which this Court finds he did not, Applicant has failed to present any evidence that would tend to establish that he was prejudiced by some act or omission of counsel, or that had counsel not acted in the manner complained of, that there is a reasonable likelihood that the Applicant would have instead proceeded to trial.

IT IS THEREFORE ORDERED THAT:

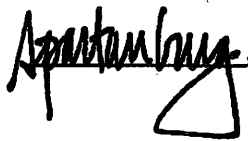
1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

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

review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

AND IT IS SO ORDERED this 10 day of September, 2018.


J. DERHAM COLE
PRESIDING JUDGE

 South Carolina

WITNESSES

Lexington County Sheriffs Department

Tricia Chandler Stoner

Law Enforcement Case #: 13006622

LSM

ARREST WARRANT NUMBER

14-STR-00021

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 5/5/14

VERDICT

Foreperson of Petit Jury
Date:

A TRUE COPY

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

DOCKET NO. 2014GS3201316

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2014

THE STATE

vs.

Richard Lee Boatwright

CDR #: 3661

Indictment for

Criminal Sexual Conduct With a Minor
3rd degree

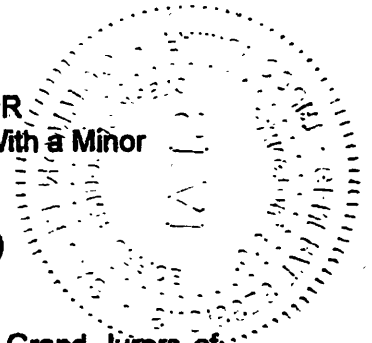
§ 16-03-0655(C)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Criminal Sexual Conduct With a Minor
3rd degree

§ 16-03-0655(C)



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

That **Richard Boatwright**, date of birth [REDACTED], 1967, being a person over fourteen years of age, did in Lexington County, South Carolina, on or about February 1, 2012 through August 1, 2012, willfully and lewdly commit or attempt to commit a lewd and lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of the child, to wit: touching of a sexual nature involving a child,

Minor [REDACTED], date of birth [REDACTED]/2000, furthermore, the said child was under the age of fourteen years during the time of these offenses, in violation of Section 16-3-655(C), S.C. Code of Laws, 1976, as amended, and previously codified as attempting or committing a lewd act upon a child pursuant to S.C. Code Section 16-15-140, 1976, as amended.

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


ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Tricia Chandler Stoner

Law Enforcement Case #: 13006622

LSM

ARREST WARRANT NUMBER

2013A3210201295

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 5/5/14

VERDICT

Foreperson of Petit Jury
Date:

A TRUE COPY

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

DOCKET NO. 2014GS3201105

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2014

**THE STATE
vs.**

Richard Lee Boatwright

CDR #: 0396

Indictment for

**Criminal Sexual Conduct with a Minor -
Second Degree**

§ 16-03-0655(B)(1)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Criminal Sexual Conduct with a Minor - Second
Degree

§ 16-03-0655(B)(1)

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

That **Richard Lee Boatwright** did in Lexington County, South Carolina on or about February 1st, 2012 through August 1st, 2012, willfully and unlawfully commit the offense of criminal sexual conduct with a minor in the second degree by engaging in sexual battery with a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: sexual intercourse and/or genital intrusion upon Minor , date of birth [REDACTED]/2000, in violation of Section 16-3-655(B)(1), S.C. Code of Laws, 1976, as amended.

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

Supanne Mayes
ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

T. M. Barr

Law Enforcement Case #: 13022431

LSM

ARREST WARRANT NUMBER

2015A3210201011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

9/14/2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS3202248

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2015

THE STATE

vs.

Richard Lee Boatwright

CDR #: 0381

Indictment for

Sexual exploitation of a minor - 3rd degree

§ 16-15-0410(A)

DONALD V. MYERS, SOLICITOR

A TRUE COPY

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

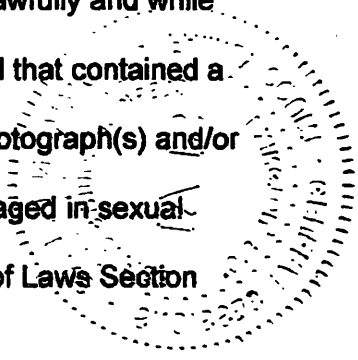
STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Sexual exploitation of a minor - 3rd degree
§ 16-15-0410(A)

At a Court of General Sessions, convened on September 2015, the Grand Jurors of Lexington County present upon their oath:

That **Richard Lee Boatwright** , a person over the age of eighteen years, did Lexington County, South Carolina on or about February 1, 2012 through December 10, 2013, commit the offense of third degree sexual exploitation of a minor, unlawfully and while knowing the character or content of the material, did possess material that contained a visual representation of a minor engaging in sexual activity, to wit: photograph(s) and/or digital image(s) of a minor child, Minor , DOB [REDACTED]/2000, engaged in sexual activity as defined in Section 16-15-375(5), in violation of S.C. Code of Laws Section 16-15-410, 1976, as amended.

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


Suzanne Mayes
ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

T. M. Barr

Law Enforcement Case #: 13022431

LSM

ARREST WARRANT NUMBER

2015A3210201012

ACTION OF GRAND JURY

TRUE BILL

Samuel Baker
Foreperson of Grand Jury
Date: *9/14/2015*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015GS3202250

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2015

**THE STATE
vs.**

Richard Lee Boatwright

CDR #: 0381

Indictment for

Sexual Exploitation of a Minor - 3rd degree

§ 16-15-0410(A)

DONALD V. MYERS, SOLICITOR

A TRUE COPY
Donna L. Myers
Lex. Co. C.C.G.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

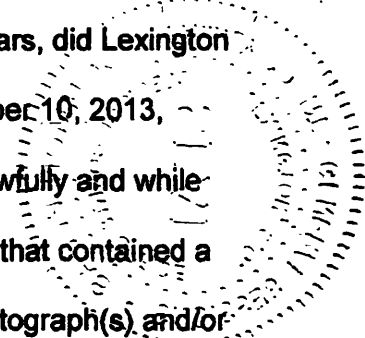
INDICTMENT FOR
Sexual Exploitation of a Minor - 3rd degree

§ 16-15-0410(A)

At a Court of General Sessions, convened on September 2015, the Grand Jurors of Lexington County present upon their oath:

That **Richard Lee Boatwright**, a person over the age of eighteen years, did Lexington County, South Carolina on or about February 1, 2012 through December 10, 2013, commit the offense of third degree sexual exploitation of a minor, unlawfully and while knowing the character or content of the material, did possess material that contained a visual representation of a minor engaging in sexual activity, to wit: photograph(s) and/or digital image(s) of unknown minor female(s) under the age of eighteen years engaged in sexual activity as defined in Section 16-15-375(5), in violation of S.C. Code of Laws Section 16-15-410, 1976, as amended.

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


Suzanne Mayer
ASSISTANT SOLICITOR