

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Lexington County

S.C. SUPREME COURT

Honorable J. Derham Cole, Circuit Court Judge

\_\_\_\_\_  
ROBERT A. BAKER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001854

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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(Court Reporter's Note: There was no direct or cross examination of any witnesses).

**INDEX OF EXHIBITS**

(Court Reporter's Note: No exhibits were marked or received into evidence).

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(The following proceedings are reported on July 15, 2010).

CLERK: Indictment 2010-GS-32-2103, the State versus Robert Allen Baker, indicted for criminal sexual conduct with a minor second degree, he is pleading as charged.

Indictment 2010-GS-32-2101, the State versus Robert Allen Baker, indicted for criminal sexual conduct with a minor second degree, he is pleading as charged.

Indictment 2010-GS-32-2105, the State versus Robert Allen Baker, indicted for lewd act upon a child, he is pleading as charged.

Indictment 2010-GS-32-2108, the State versus Robert Allen Baker, indicted for lewd act upon a child, he is pleading as charged.

Indictment 2009-GS-32-1600, the State versus Robert Allen Baker, indicted for criminal sexual conduct with a minor second degree, he is pleading as charged.

Indictment 2009-GS-32-1597, the State versus Robert Allen Baker, indicted for criminal sexual conduct with a minor second degree, he is pleading as charged.

All indictments are true billed, and he is represented by Mr. Mauldin.

Raise your right hand, please.

ROBERT ALLEN BAKER is

1 first duly sworn.

2 PROBATION OFFICER: Your Honor?

3 THE COURT: Yes, sir.

4 PROBATION OFFICER: Mr. Baker is on probation.

5 The plea today will violate his probation. We are  
6 serving the citation at this time, and the victim's  
7 mother on the probation case is present and would like  
8 to address the Court at the appropriate time if you  
9 would so allow.

10 THE COURT: All right. Thank you. Thank you  
11 very much, Mr. Rentz.

12 Mr. Mauldin, you represent Robert Allen Baker?

13 MR. MAULDIN: Yes, Your Honor.

14 THE COURT: Have you explained to him the  
15 charges in the indictments, the various punishments, his  
16 constitutional rights, including his right to a jury  
17 trial on each of these charges?

18 MR. MAULDIN: Yes, sir.

19 THE COURT: In your opinion does the Defendant  
20 understand each of the charges, the potential  
21 punishment, and his constitutional rights?

22 MR. MAULDIN: Yes, sir.

23 THE COURT: How does the Defendant indicate to  
24 you that he wishes to plead or intends to plead, guilty  
25 or not guilty?

1 MR. MAULDIN: Guilty, Your Honor.

2 THE COURT: Are you Robert Allen Baker?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Baker, before I can accept a  
5 plea of guilty, it's necessary for me to determine that  
6 your pleas of guilty are made freely and voluntarily.  
7 Therefore, I need to ask you some questions. If you do  
8 not understand my questions or the words that I use,  
9 please let me know, and I will explain them to you.

10 If at any time you wish to talk with your  
11 lawyer about any matter during my questioning or you  
12 feel that it's necessary to do so, please ask me and I  
13 will allow you to do so. Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: How old are you, sir?

16 THE DEFENDANT: Twenty-nine, sir.

17 THE COURT: How much education do you have?

18 THE DEFENDANT: Graduated.

19 THE COURT: Graduated high school?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: What type of work do you do?

22 THE DEFENDANT: Paint and body work.

23 THE COURT: Today are you under the influence  
24 of any medication, drug or alcohol?

25 THE DEFENDANT: No, sir.

1           THE COURT: Are you aware of any physical,  
2 emotional or nervous problem that might keep you from  
3 understanding what you are doing today?

4           THE DEFENDANT: No, sir.

5           THE COURT: Tell me what you are doing here  
6 today.

7           THE DEFENDANT: I'm pleading, sir.

8           THE COURT: Pleading guilty?

9           THE DEFENDANT: Yes, sir, pleading guilty.

10          THE COURT: You have heard your attorney,  
11 Mr. Mauldin, tell me that he has explained the various  
12 charges to you, he has explained your constitutional  
13 rights to you, he explained the potential punishments to  
14 you and that you understand all these things; is that  
15 correct?

16          THE DEFENDANT: Yes, sir.

17          THE COURT: I have been handed up six  
18 indictments. I will go over each one of them  
19 individually. It appears to be four indictments for  
20 criminal sexual conduct with a minor in the second  
21 degree and two indictments for committing or attempting  
22 a lewd act upon a child.

23                 The first indictment numerically is  
24 09-GS-32-1597. It reads that Robert Allen Baker did in  
25 Lexington County, South Carolina, between December 1 and

1 December 31 of '08, commit a sexual battery upon a minor  
 2 who was 14 years of age or less, but who was at least 11  
 3 years ago of age, to wit, sexual intercourse upon  
 4 Minor2. date of birth, [REDACTED]/95, in violation of  
 5 16-3-655(b)(1). For that charge you can receive a  
 6 sentence up to 20 years. Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: The next indictment,  
 9 09-GS-32-01600 reads that Robert Allen Baker did in  
 10 Lexington County, on or about January 12 of '09, commit  
 11 a sexual battery upon a minor who was 14 years of age or  
 12 less but who was at least 11 of years of age, to wit,  
 13 sexual intercourse upon that same named victim in  
 14 indictment 1597 in violation of Section 16-3-655(b)(1).  
 15 That is an indictment for criminal sexual conduct with a  
 16 minor in the second degree, for which you can receive a  
 17 sentence of up to 20 years. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: The next indictment is  
 20 2010-GS-32-02101. It reads that Robert Allen Baker did  
 21 in Lexington County, South Carolina, between January 1  
 22 of '09 and January 13 of '09, commit a sexual battery,  
 23 to wit, the Defendant forced the victim to perform oral  
 24 sex upon a minor who was 14 years of age or less but who  
 25 was at least 11 years of age, to wit, Minor1, date of

1 birth, ■■■■ 94, in violation of 16-3-655(b)(1). That's  
2 an indictment for criminal sexual conduct with a minor  
3 in the second degree, for which you can receive a  
4 sentence of up to 20 years. Do you understand?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: The next indictment,  
7 2010-GS-32-02103, reads that Robert Allen Baker did on  
8 January 13, '09, in Lexington County, South Carolina,  
9 commit a sexual battery, to wit, sexual intercourse upon  
10 a minor who was 14 years of age or less but who was at  
11 least 11 years ago of age, to wit, Minor 1, date of  
12 birth, same date as stated before, ■■■■ 94 in violation  
13 of 16-3-655(b). It's an indictment for criminal sexual  
14 conduct with a minor in the second degree, for which you  
15 can receive a sentence of up to 20 years. Do you  
16 understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: The next indictment,  
19 2010-GS-32-02105, reads that Robert Allen Baker did in  
20 Lexington County between December 1 and December 31 of  
21 '08, being a person over the age of 14, willfully and  
22 lewdly commit or attempt a lewd or lascivious act upon  
23 or with the body or its parts of a child under the age  
24 of 16, to wit, Minor 1, date of birth, ■■■■ 94, with  
25 the intent of arousing, appealing to or gratifying the

1 lust or passions or sexual desires of the person or of  
2 the child, to wit, the Defendant fondled and licked her  
3 breasts in violation of 16-15-140 of the Code of Laws of  
4 South Carolina. That's an indictment for committing or  
5 attempting to commit a lewd act upon a minor, for which  
6 you can receive a sentence of up to 15 years. Do you  
7 understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: The next indictment,  
10 2010-GS-32-02108, reads that Robert Allen Baker did in  
11 Lexington County, between 1 January 09 and January 13,  
12 '09, being a person over the age of 14, willfully and  
13 lewdly commit or attempt a lewd or lascivious act upon  
14 or with the body or its parts of a child under the age  
15 of 16, to wit, Minor 1, same date of birth as the  
16 previous indictment, with the intent of arousing,  
17 appealing to or gratifying the lusts or passions or  
18 sexual desires of the person or of the child, to wit,  
19 the Defendant fondled and licked her breasts in  
20 violation of 16-15-140. It's a charge of committing or  
21 attempting a lewd act on a child, for which you can  
22 receive 15 years. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand all those  
25 charges and all those potential punishments, Mr. Baker?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: To recap, you have four counts of  
3 criminal sexual conduct with a minor in the second  
4 degree, two counts of lewd act on a minor, for which the  
5 maximum potential sentence is 110 years. Do you  
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: When you plead guilty, you give up  
9 certain important constitutional rights. First, you  
10 give up your right to remain silent. That is your right  
11 against self incrimination, your right to say nothing at  
12 all. You cannot be compelled to testify or to provide  
13 evidence against yourself.

14 Second, you give up your right to have a jury  
15 trial. That is your right to have a jury decide whether  
16 or not you are guilty beyond a reasonable doubt. They  
17 would base their decision upon evidence which the State  
18 presents and on any evidence you might wish to  
19 introduce.

20 In a trial, Mr. Baker, you would be presumed  
21 to be innocent, and the State would have to produce  
22 evidence that would convince all 12 members of the jury  
23 that you were guilty beyond a reasonable doubt.

24 Third, you give up your right to confront and  
25 be confronted by the witnesses against you. That is the

1 right to see, hear, and cross examine any witnesses that  
2 may be called against you during the trial and the right  
3 to subpoena and call witnesses on your own behalf. Do  
4 you understand these rights?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that when you  
7 plead guilty, you give up these constitutional rights?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Is that what you want to do?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that you won't  
12 get a jury trial if you plead guilty?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All of these cases have been true  
15 bill indicted by the grand jury. So my next question  
16 then is understanding the nature of the charges against  
17 you -- again, four counts of criminal sexual conduct  
18 with a minor in the second degree and two counts of  
19 committing or attempting to commit a lewd act on a  
20 minor, and the consequences of these guilty pleas, that  
21 the potential maximum punishment on each count of  
22 criminal sexual conduct with a minor in the second  
23 degree is 20 years, a total of 80, and on the lewd act,  
24 15 years each, for a total of 30, for a maximum of 110  
25 years -- how do you, plead guilty or not guilty?

1 THE DEFENDANT: Guilty.

2 THE COURT: As to each and every charge?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand that when you  
5 plead guilty, you admit the truth of the charges that  
6 have been made against you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You may have defenses to these  
9 charges against you, Mr. Baker. I don't know whether  
10 you do or not. Do you understand that if you plead  
11 guilty, you will waive or give up any defenses to these  
12 charges?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You may have given an  
15 incriminating statement in these cases. I don't know  
16 whether you did or not. If you plead guilty, do you  
17 understand that you waive or give up the right to  
18 contest or challenge whether or not such a statement was  
19 freely and voluntarily given in accordance with your  
20 constitutional rights?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Did you commit the offense of  
23 criminal sexual conduct with a minor in the second  
24 degree between December 1 of '08 and December 31, '08,  
25 by committing sexual intercourse on Minor 2 in

1 Lexington County?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Did you commit the offense of  
4 criminal sexual conduct with a minor in the second  
5 degree on January 12, '09, in Lexington County, by  
6 committing sexual intercourse upon the body of Minor 2  
7 ?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Did you commit the offense of  
10 criminal sexual conduct with a minor in the second  
11 degree between January 1 of '09 and January 13 of '09,  
12 by causing the victim, Minor 1 , to perform oral  
13 sex on you in Lexington County?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did you commit the offense of  
16 criminal sexual conduct with a minor in the second  
17 degree, on or about January 13, '09, in Lexington  
18 County, by committing sexual intercourse upon the body  
19 of Minor 1 ?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did you commit a lewd act upon a  
22 minor between December 1 of '08 and December 31 of '08,  
23 with and upon the body of Minor 1 , by fondling or  
24 licking her breasts in Lexington County?

25 THE DEFENDANT: Yes, sir.

1           THE COURT: Did you commit the offense of lewd  
2 act upon a minor, on or about January 1 of '09 --  
3 between January 1 of '09 and January 13 of '09, by  
4 fondling and licking the breasts of Minor i           in  
5 Lexington County?

6           THE DEFENDANT: Yes, sir.

7           THE COURT: Solicitor, have there been any  
8 plea negotiations in these cases?

9           MS. MOORE: Yes, sir, Your Honor, there have  
10 been. Multiple indictments are being nol-prossed in  
11 lieu of his plea today. He is pleading to six  
12 indictments. All other pending indictments in Lexington  
13 County are being nol-prossed as a result of this plea  
14 today.

15           We have also entered into a negotiated 30-year  
16 sentence that we would ask Your Honor to consider,  
17 2010-2103 (sic) as a 20-year sentence, to be run  
18 consecutive to 2009-1600 (sic), sentence him to 10 years  
19 consecutive. All other indictments to run concurrent  
20 with those two. Both of those indictments represent  
21 each of the victims.

22           THE COURT: All right. What indictments are  
23 you dismissing, Solicitor?

24           MS. MOORE: Your Honor, I don't have an  
25 enumerated list, but there is probably about ten.

1 MR. MAULDIN: There's 12.

2 MS. MOORE: Twelve.

3 THE COURT: Twelve indictments. All pending  
4 in Lexington County? All pending in Lexington County?

5 MS. MOORE: All other pending, other than  
6 these, are being dismissed, yes, sir.

7 THE COURT: Mr. Mauldin, has the solicitor  
8 correctly and completely stated the negotiations into  
9 the record?

10 MR. MAULDIN: That is correct, Your Honor. It  
11 is a negotiated sentence for 30 years. The 30 years is  
12 to be set at 85 percent. That's basically a flat  
13 30-year sentence, and the remaining charges against  
14 Mr. Baker are to be dismissed.

15 THE COURT: Mr. Baker, has the solicitor fully  
16 and completely stated what you understand the  
17 recommendation to be?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Is there anything more to it in  
20 your mind?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Do you still wish to enter pleas  
23 of guilty to all these charges?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Besides the plea negotiations that

1 you have heard stated into the record and that you have  
2 agreed with, has anyone promised you anything or held  
3 out any hope of reward to get you to plead guilty?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Has anyone threatened you or used  
6 force to get you to plead guilty?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Has anyone used any pressure or  
9 intimidation to cause you to plead guilty?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Have you had enough time to make  
12 up your mind as to whether or not you want to plead  
13 guilty?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Are you pleading guilty of your  
16 own free will and accord?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Are you satisfied with the manner  
19 in which your lawyer has advised you and represented  
20 you?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Have you talked with your lawyer  
23 as often and for as long as you feel necessary for him  
24 to properly represent you?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you need anymore time to talk  
2 with your lawyer?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: Have you understood your talks  
5 with your lawyer?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Has your lawyer done everything  
8 for you that feel like he could have done or should have  
9 done?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Has your lawyer done anything in  
12 this case that you feel like he should not have done?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Are you completely satisfied with  
15 your lawyer's services?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Have you understood my questions?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Mr. Baker, is there anything you  
20 would like to ask me about what we have just been over?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Do you understand that you have a  
23 right to appeal your guilty pleas and the sentence or  
24 sentences of the Court and that you or your lawyer must  
25 do this within ten days?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Solicitor.

3 MS. MOORE: Your Honor, may it please the  
4 Court. These offenses occurred or began when the  
5 Defendant began dating the victims' mother, April Hall.  
6 They met at a New Year's Eve party on New Year's Eve,  
7 2006, and began dating shortly thereafter.

8 Mr. Baker moved in with Ms. Hall and her three  
9 children. She has two daughters named in the  
10 indictments and a son who is younger. He moved in in  
11 April of 2007.

12 In the summer of 2007, the first assault on  
13 the oldest daughter, Minor 1, he threw her on the bed,  
14 tried to pull her panties down, tried to insert his  
15 penis into her vagina.

16 She fought him, ripped his necklace off, and  
17 that scared Mr. Baker off of her because he left her  
18 alone, Your Honor, until he asked -- he remained living  
19 in the home. She never reported to it her mother, but  
20 in December of 2008, he asked her mother to marry him.

21 The next day is when he began the lewd acts on  
22 Minor 1. He began fondling her breasts. It escalated  
23 into almost an everyday occurrence beginning in January.  
24 She knows this because she was on Christmas break.

25 In January, between January 1st and

1 January 13th, he forced her to perform oral sex on him.  
2 Minor 1 tells me that she never told her mother because  
3 her mother was so happy and she was engaged. She had  
4 already picked out her wedding dress, and she felt she  
5 didn't want to ruin her mother's happiness.

6 She began sleeping with her younger sister  
7 though to avoid any contact with Mr. Baker. Mr. Baker  
8 would come into her room in the early morning hours,  
9 lift her shirt up, and begin fondling her breasts.

10 Ultimately she finally disclosed on  
11 January 13th, 2009. On that date, Your Honor, Ms. Hall,  
12 the girls' mother, had to take a friend of hers, who is  
13 present in the courtroom today, as well as other family  
14 members and friends, she had to take her friend to  
15 Charleston for some medical work, and she had to leave  
16 the home at a very early hour.

17 Mr. Baker tried to wake her up. She knew what  
18 he was up to, refused to get out of bed, got up, got  
19 ready for school. It was always the practice that she  
20 would be dropped off at Pelion High School first and her  
21 two younger siblings would be dropped off at school  
22 after her.

23 He took the two younger siblings to school.  
24 After they got out of the car, she realized something  
25 was going on. He told her, You think you are slick,

1 don't you? Returned back to the home and forcibly raped  
2 her back in her mother's bedroom.

3 He forced her down on the bed, had vaginal  
4 intercourse with her. It was her first experience, her  
5 first sexual experience. He had trouble getting it in  
6 but reached under the mattress, had a bottle of K.Y.  
7 jelly that enabled him to perform the sexual  
8 intercourse.

9 That's important because she goes to school.  
10 He takes her to school, tells her not to tell anyone,  
11 but immediately upon arriving at Pelion High School, she  
12 goes straight into the front office and immediately  
13 tells the secretary at the front desk she had been  
14 raped.

15 She then goes to a guidance counselor who  
16 calls the school resource officer, Officer Moore, who is  
17 present in the courtroom. He calls E.M.S., realizes she  
18 has not taken a shower. They follow all the perfect --  
19 it was a text book case of what to do in a sexual  
20 assault kit, for a sexual assault kit to be performed  
21 correctly.

22 She is transported to Lexington Medical  
23 Center. A sexual assault nurse examiner just so  
24 happened to be on call and did the examination. They  
25 were able to get semen off of the victim.

1           In the meantime deputies are trying to get in  
2 touch with the mother who was in Charleston. The  
3 Defendant is calling her. She tells -- the mother tells  
4 the Defendant that something has happened to Minor 1 ,  
5 doesn't go into any details, but he leaves his job and  
6 rushes back home at [REDACTED] Road in Pelion where all  
7 these assaults have occurred.

8           He is met there by Detective Ed Prestigiacommo,  
9 who is not present today, Your Honor, because he is on  
10 vacation. Officer Moore was there. Several other  
11 officers were waiting in the driveway, waiting on a  
12 search warrant to search the home.

13           They detained Mr. Baker. They take their  
14 lawful search warrant, go into the home. They find the  
15 K.Y. jelly. They find the towel that she described that  
16 he made her wipe down with. They took the sheets off  
17 the bed, took all of this into evidence, Your Honor, and  
18 charged him with criminal sexual conduct with a minor  
19 second.

20           At the hospital Detective Nancy Vargas, who is  
21 the victim advocate of the Sheriff's Department, who is  
22 also present in the courtroom, interviews the victim and  
23 gets more details as to the past assaults that led up to  
24 this particular day.

25           Later that day the younger sister, Minor 2 ,

1 reveals that she, too, had been sexually assaulted by  
2 him. She reveals that, I believe after Detective  
3 Prestigiaco and Sergeant Roy Mefford interviewed  
4 Mr. Baker.

5           Sergeant Mefford went to serve the warrants on  
6 him in the jail. He stated he wanted to talk to  
7 Sergeant Mefford to tell him his side of the story.  
8 They Mirandized him, sat him down, and got a written  
9 statement, as well as an oral statement.

10           I have that statement if Your Honor would like  
11 to read it. He does admit that he has had sexual  
12 intercourse with the younger child, Minor 2 , about five  
13 times and oral sex with her -- she was 13 at the time,  
14 Your Honor -- five to ten times.

15           He admits as well having a sexual intercourse  
16 with Minor 1 once and oral sex two to three times. Your  
17 Honor, he is charged with all these indictments on both  
18 girls.

19           The evidence is taken to S.L.E.D.; however,  
20 S.L.E.D. was not able to get a D.N.A. match on him.  
21 They tested every piece of evidence. There was semen  
22 indicated on everything, which baffled me a little bit.

23           But when I interviewed the mother of the  
24 victims, she said that when she began dating the  
25 Defendant, he told her that he did not want anymore

1 children. Therefore, he had had a vasectomy after the  
2 birth of his second child. Lieutenant Robin Taylor at  
3 S.L.E.D. tells me that once a man has had a vasectomy,  
4 no D.N.A. can be extracted from seminal fluid.

5 Your Honor, there are many family members, the  
6 victims. The victim's mother is present. They are very  
7 distraught, wish they had the courage to address, Your  
8 Honor, but I don't believe that they do.

9 They are in agreement with this plea, only to  
10 keep the girls from having to go through the trauma of a  
11 trial. They have been traumatized enough and believe  
12 that a 30-year sentence is justice in this case.

13 THE COURT: Solicitor, perhaps I missed it in  
14 my notes.

15 MS. MOORE: Yes, sir.

16 THE COURT: As far as the younger child,

17 Minor 2 .

18 MS. MOORE: Yes, sir.

19 THE COURT: In the indictments alleging -- it  
20 looks like two indictments that refer to Minor 2 --  
21 covering dates December 1 of '08 and December 31, '08.

22 MS. MOORE: Yes, sir.

23 THE COURT: And January 12 of '09. How old  
24 would she have been at that time?

25 MS. MOORE: Thirteen years old both times,

1 Your Honor.

2 THE COURT: Thirteen years of age. Then four  
3 indictments reference Minor 1 : January 1, '09 to 13 of  
4 '09; December 1, '08 to December 31, '08; January 13 of  
5 '09; January 1, '09, January 13, '09, alleging lewd acts  
6 and sexual intercourse, fellatio. What ages would she  
7 have been?

8 MS. MOORE: Fourteen.

9 THE COURT: Thank you. Prior record,  
10 Solicitor?

11 MS. MOORE: Yes, sir, Your Honor. He was  
12 convicted of assault of a high and aggravated nature in  
13 August of 2004. He also pled to an A.B.H.A.N.  
14 December 6, 2006.

15 That is the probation -- he is currently on  
16 probation. He got a ten-year sentence suspended to five  
17 years probation. These events occurred six, seven  
18 months -- the beginning of it -- six, seven months after  
19 he was put on probation.

20 THE COURT: Is there an 1106 on the probation,  
21 Mr. Rentz?

22 PROBATION OFFICER: No, sir.

23 THE COURT: Tell me -- Mr. Baker, let me ask  
24 you this. The Department of Probation, Parole, and  
25 Pardon Services alleges you have willfully and

1 intentionally violated the terms and conditions of your  
2 probation. How do you plead to that, guilty or not  
3 guilty?

4 THE DEFENDANT: Guilty.

5 THE COURT: Thank you. Tell me about his  
6 probation, Mr. Rentz.

7 PROBATION OFFICER: Yes, sir. As Ms. Moore  
8 stated, he pled December 7, 2006, to A.B.H.A.N. He had  
9 actually been charged with C.S.C. first and pled to  
10 A.B.H.A.N. He received a sentence of ten years with  
11 five years probation. Today's plea will violate that  
12 probation.

13 We attempted to contact the victim a couple of  
14 hours ago, and her cell phone was either off or full of  
15 messages. We saw in the file that her mother is  
16 Ms. Hinson, who works at the Sheriff's Department.  
17 Ms. Hinson is here and would like to address the Court  
18 at the appropriate time.

19 THE COURT: Do you have the sentencing sheet?

20 PROBATION OFFICER: I do.

21 THE COURT: May I see it?

22 (Hands to Court.)

23 (Pause.)

24 THE COURT: Anything further, Solicitor, from  
25 the State?

1 MS. MOORE: No, sir.

2 THE COURT: Now, Ms. Hinson is present?

3 PROBATION OFFICER: Yes, sir.

4 THE COURT: Ms. Hinson, you are the mother of  
5 the victim on the assault and battery of a high and  
6 aggravated nature where he pled in December of '06?

7 MS. HINSON: Yes, sir.

8 THE COURT: Give me just one movement. I find  
9 there is a substantial factual basis for these guilty  
10 pleas. The Defendant's decision to plead and enter  
11 these guilty pleas to these charges is freely,  
12 voluntarily, knowingly, and intelligently made. He has  
13 had the advice and counsel of a very competent attorney  
14 with whom he says he is well and totally satisfied. His  
15 pleas of guilty are therefore accepted.

16 I would be glad to hear from, Ms. Hinson.

17 MS. HINSON: I just wanted to say that my  
18 daughter and grandchildren were put through a lot of  
19 abuse by Mr. Baker. I am just asking that you run his  
20 ten-year suspended sentence consecutive so we can have  
21 some closure.

22 THE COURT: You heard Mr. Rentz said they  
23 attempted to contact your daughter and were not able to  
24 do so. Are you speaking on her behalf?

25 MS. HINSON: Yes, sir, I am.

1 THE COURT: And you have no objections with  
2 going forward with the probation violation matter today  
3 without your daughter being present?

4 MS. HINSON: Yes, sir.

5 THE COURT: Do you object to me hearing the  
6 probation violation today without your daughter being  
7 present?

8 MS. HINSON: Oh, no, sir.

9 THE COURT: Thank you. That was probably an  
10 unartful way that I asked that question. Thank you,  
11 Ms. Hinson. Mr. Mauldin.

12 MR. MAULDIN: Thank you, Your Honor.  
13 Mr. Baker is 29 years old. He's originally from Riley  
14 County, Kansas, and moved to South Carolina when he was  
15 two or three years old, lived in South Carolina for most  
16 of his life.

17 As he told you, he did graduate high school.  
18 That was from Swansea High School in 2000. He says he  
19 is doing paint and body work. He has mostly worked for  
20 a placed called Dick Smith Paint and Body, has been  
21 there off and on since 1997.

22 He says he was an apprentice there and did  
23 everything from fixing cars, paintings cars, washing  
24 cars, putting cars together, anything they wanted him to  
25 do. He is divorced, Your Honor, and does have two

1 children from that marriage, who are nine and seven.

2 THE COURT: And that's Ms. Hinson's  
3 grandchildren?

4 MR. MAULDIN: Yes. Standing here with him is  
5 Linda Zinc, his sister. Also in the courtroom is his  
6 father, Richard Baker, a niece, Ms. Wagner, and another  
7 sister, Janet Washington.

8 Mr. Baker basically confessed to this, Your  
9 Honor. He did admit to the police what he did. I have  
10 been doing this 11, 12 years now -- to some people  
11 that's a long time being a lawyer and to some people  
12 that's a short time being a lawyer. I guess it depends  
13 on where you are in the profession.

14 I have had a lot of these cases. It's very  
15 rare for me to have somebody that has actually confessed  
16 to doing it and admitted it to the police. I think that  
17 is important in Mr. Baker's circumstance, Your Honor, in  
18 that that admission and the fact that you admit you did  
19 it is a large step toward perhaps one day correcting the  
20 behavior that led to the offenses or the mental attitude  
21 that did so.

22 I know his family is definitely not proud of  
23 what he did. They think it's horrible and terrible that  
24 this happened, but they are proud that he did admit it.  
25 That's one of the main reasons they are standing by him

1 and still here today and willing to support him is  
2 because he did admit he did it. He did take  
3 responsibility and he has come to court and taken  
4 responsibility today, Your Honor.

5 I have explained to him all the potential  
6 ramifications, as far as sex offender registry regarding  
7 these charges, the electronic monitoring that he has to  
8 do, the community supervision after the service of his  
9 term in the Department of Corrections, and the potential  
10 for the Attorney General's Office to initiate sexually  
11 violent predator proceedings, if that should actually  
12 exist by the time Mr. Baker gets out.

13 He is stepping forward, Your Honor. He is  
14 taking responsibility. He is willing to serve an  
15 extremely long sentence that a lot of people would balk  
16 at doing. He understands that he needs to be punished  
17 for this.

18 We believe the 30-year sentence at 85 percent,  
19 to be followed by these other ramifications, is  
20 significant punishment, Your Honor. In that regard we  
21 would hope that you would run the probationary sentence  
22 concurrent because that is a long period of time for him  
23 to do.

24 He may still have to deal with the sexually  
25 violent predator issues once he may be released from the.

1 Department of Corrections at the age of close to 55.  
2 That's about all I have to say, Your Honor. He has been  
3 in jail since January 13, '09, and hope Your Honor will  
4 give him credit towards his sentences since that date.

5 THE COURT: Thank you very much, Mr. Mauldin.  
6 Is there anything you would like to say, Mr. Baker?

7 THE DEFENDANT: I would like to say that I  
8 apologize to the family. I know what I did was wrong  
9 and I apologize.

10 MR. MAULDIN: Mr. Baker just wanted me to add  
11 that he didn't want the children to go through the trial  
12 as well.

13 THE COURT: I would be glad to hear whatever  
14 he has to say.

15 MR. MAULDIN: That was just something he  
16 wanted me to add.

17 THE COURT: Thank you. Thank you very much,  
18 Mr. Mauldin.

19 Let me make sure the attorneys and I  
20 understand the negotiated sentence. He would get 20  
21 years on 1600, 09-1600, and 10 years on 10-2103,  
22 consecutive?

23 MS. MOORE: Yes, sir.

24 THE COURT: All others would be concurrent  
25 sentences as far as his entering of his pleas today; is

1 that correct, Solicitor?

2 MS. MOORE: Yes, sir.

3 THE COURT: Is that correct, Mr. Mauldin?

4 MR. MAULDIN: Yes, sir the sentence to be  
5 fashioned as being 30 years.

6 THE COURT: I accept the negotiated sentence  
7 as to his current indictments he is entering pleas to.  
8 On 09-GS-32-1598, criminal sexual conduct with a minor  
9 in the second degree, the Defendant is committed to the  
10 State Department of Corrections for a determinate term  
11 of 20 years.

12 On 10-GS-32-2101, criminal sexual conduct with  
13 a minor in the second degree, the Defendant is committed  
14 to the State Department of Corrections for a determinate  
15 term of 20 years.

16 2010-GS-32-2105, lewd act on a minor, the  
17 Defendant is committed to the State Department of  
18 Corrections for a determinate term of 10 years.

19 2010-GS-32-2108, lewd act on a minor, the  
20 Defendant is committed to the State Department of  
21 Corrections for a determinate term of 10 years.

22 On 2010-GS-32-2103, the Defendant is committed  
23 to the State Department of Corrections for a determinate  
24 term of 10 years.

25 And 2009-GS-32-1600, criminal sexual conduct

1 with a minor in the second degree, the Defendant is  
2 committed to the State Department of Corrections for a  
3 determinate term of 20 years.

4           The 20-year sentence on 1600 and the 10-year  
5 sentence on 2103 are consecutive, one to the other, that  
6 is 20 and 10 consecutive. All other sentences imposed  
7 this date on the active indictments are 20 years, 20  
8 years, 10 years, and 10 years which are concurrent to  
9 the 20- and 10-year consecutive sentence.

10           I find that he has willfully and intentionally  
11 violated the terms and conditions of his probation. I  
12 am revoking in full, whatever maximum amount I can  
13 sentence him to, consecutive on that. He gets credit  
14 for all time served. He is placed on the sex offender  
15 registry. Thank you. Good luck to you, Mr. Baker.

16           \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*

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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal, in the Criminal Court for Lexington, South Carolina on the 15th day of July, 2010.

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

April 16, 2012

*L Coconut Pantsari*

Court Reporter

ORIGINAL

FORM 5

STATE OF SOUTH CAROLINA )

County of Lexington )

Robert Allen Baker #341795 )  
Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

FILED  
IN THE COURT OF COMMON PLEAS

2012 MAR 12 A 9:14

BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC

APPLICATION FOR

POST-CONVICTION RELIEF

2012 CP3201112

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted:

1. Place of detention Lee Correctional Institute ~~990~~ #  
990 Wisacky Hwy. Bishopville, S.C. 29 29010
2. Name and location of Court which imposed sentence \_\_\_\_\_  
Court of General Sessions - Lexington County
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) 2010-GS-32-2103 2010-GS-32-2101
  - (b) 2010-GS-32-2105 2010-GS-32-2108

A TRUE COPY

[Signature]  
Lex. Co. C.C.C.P., G.S. & F.C.

(c) 2009-GS-32-1600 2009-GS-32-1597

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 07-15-2010: 20 and 10 year consecutive sentence

(b) \_\_\_\_\_

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a) after a plea of guilty XX

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

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

NO

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

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

(a) Ineffective assistance of counsel

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) Ineffective assistance of counsel

(b) Denial of Due Process

(c) \_\_\_\_\_

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Failure to Introduce evidence of Mental Incompetency

(b) \_\_\_\_\_

(c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

NO

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) Ineffective assistance of counsel
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

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

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. David M. Mauldin Eleventh Circuit Public Def. OFF.  
407 1/2 W. Main Street Lexington, S.C. 29072
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. Plea and Sentencing
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

A new Plea  
Sentence reduction

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

No

**ORIGINAL**

STATE OF SOUTH CAROLINA )  
County of Lexington )

VERIFICATION

**2012 CP3201112**

I, Robert Allen Baker, 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.

Robert Baker

SWORN to and subscribed before me this 7 day of Mar 2012  
Braey Ann (L.S.)  
Notary Public

My Commission Expires: 5-16-12

BETH A. CARRIGS  
CLERK OF COURT  
LEXINGTON SC

2012 MAR 12 A 9:15

FILED

**ORIGINAL**

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

I, Robert Allen Baker, 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.

*Robert Baker*

Applicant

SWORN or affirmed to and subscribed before me this

9 day of Mar 2012  
*S. Brauer*  
Notary Public

My Commission Expires: 5/6/11

2012 CP 3201112

BETH A. CARRIG  
CLERK OF COURT  
LEXINGTON SC

2012 MAR 12 A 9 15

FILED

Robert Baker  
SCD# 341795  
S.M.V. Southside-136  
Lee Corr. Inst.  
990 Wisacky Hwy.  
Bishopville, S.C. 29010

63



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Clerk of Court  
139 E. Main street, RM-007  
Lexington, S.C. 29072

**LEGAL MAIL ONLY**

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**ORIGINAL**

Clerk of Court,  
Please find enclosed my P.C.R. application.  
I would like a copy after it has been filed. Thank you,

Sincerely,  
Robert A. Baker  
Robert A. Baker  
March, 7 2012

BETH A. CARRIGS  
CLERK OF COURT  
LEXINGTON SC

2012 MAR 12 A 9:11

**FILED**

**2012 CP 3201112**

ORIGINAL

STATE OF SOUTH CAROLINA )  
COUNTY OF LEXINGTON )  
STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS  
ELEVENTH JUDICIAL CIRCUIT

2010 AUG 23 2009-GS-32-1597 and 1600  
2010-GS-32-2101, 2103, 2105 and 2106  
2006-GS-32-3893

vs.

ROBERT BAKER,

Defendant.

BETH A. CATHIGO  
CLERK OF COURT  
ORDER CLARIFYING SENTENCE  
LEXINGTON, S.C.

The Defendant pled guilty to the above captioned 2009 and 2010 indictments on July 15, 2010 before the Honorable R. Knox McMahon. He was sentenced to ten years each for indictments 2010-GS-32-2108, 2105 and 2103. He was sentenced to twenty years each for indictments 2009-GS-32-1597 and 1600 and 2010-GS-32-2101. The twenty year sentence for indictment 2009-GS-32-1600 is consecutive to the ten year sentence on indictment 2010-GS-32-2103. The remaining sentences on the 2009 and 2010 indictments are to be concurrent.

Due to the plea his probationary sentence on the 2006 indictment was revoked in full for ten years. This sentence was to run consecutive to all other sentences.

IT IS THEREFORE ORDERED THAT the Department of Corrections modify their interpretation and calculation of the Defendant's sentence to reflect what is in this order.

IT IS SO ORDERED this 23<sup>rd</sup> day of August 2010 at Lexington, South Carolina.

*R. Knox McMahon*  
R. Knox McMahon  
Circuit Court Judge

I SO MOVE:  
*David M. Mauldin*  
David M. Mauldin  
Attorney for Defendant

I CONSENT  
*Debra B. Moore*  
Debra B. Moore  
Assistant Solicitor

A TRUE COPY  
Lex. Co. C.C.C.P., G.S. & E.C.



Applicant did not appeal his sentence or conviction.

Attached herewith and incorporated herein are the records of the Lexington County Clerk of Court regarding the subject convictions, and the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

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

1. Ineffective Assistance of Counsel
  - a. "Failure to introduce evidence of Mental Incompetence."
2. Denial of Due Process

## III.

The Respondent submits that this application for post-conviction relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10 to -160 (Supp. 2003). S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996).

The Applicant was convicted of the offense(s) he challenges in this Application on July 15,

---

concurrent. Probationary sentence for 2006-GS-32-3893 revoked in full for 10 years to run consecutive to all other sentences.

2010. This Application was filed March 12, 2012, well after the expiration of the one-year statutory filing period.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this court summarily dismiss the Application for failure to file within the time mandated by the Post Conviction Procedure Act.

#### IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

KAELOE E. MAY  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

July 10, 2012





COPY

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF LEXINGTON ) FOR THE ELEVENTH JUDICIAL CIRCUIT  
CASE # 2012-CP-32-1112

2015 JUL 20 P 2:30

Robert Baker, )

vs. )

State of South Carolina, )

Respondent. )

ORDER FOR PAYMENT OF FUNDS  
AND AUTHORIZATION OF SERVICES

This matter came before me pursuant to §17-3-50(B) and (C) of the 1976 S.C. Code of Laws, as amended, through the attached Motion outlining the facts and circumstances of this case.

It appears, and I so find, that that payment in excess of the standard rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services to be provided are reasonably and necessarily incurred.

**IT IS ORDERED** that the Commission on Indigent Defense shall issue payment in an amount not to exceed Five Thousand and no/100 (\$5,000.00) Dollars for the services of Forensic Psychiatrist, Amanda Salas, MD.

**IT IS FURTHER ORDERED** that the Defendant may reapply for additional funding as necessary in areas for which funds have already been requested or in areas for which the defense has yet to request funding.

**AND IT IS SO ORDERED.**

*William P. Dandridge*  
\_\_\_\_\_  
Chief Administrative Judge  
Eleventh Judicial Circuit

Lexington, South Carolina

This 9<sup>TH</sup> day of July, 2015

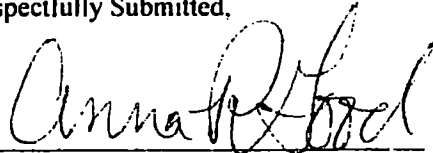
STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 ) FOR THE ELEVENTH JUDICIAL CIRCUIT  
COUNTY OF LEXINGTON ) CASE # 2012-CP-32-1112

Robert Baker, )  
 )  
vs. ) MOTION FOR PAYMENT OF FUNDS  
 ) AND AUTHORIZATION OF SERVICES  
 )  
State of South Carolina, )  
 )  
Respondent. )  
\_\_\_\_\_ )

The Applicant, by and through his undersigned counsel, requests the Court to order the payment of State funds on behalf of the Applicant and hereby states as follows:

1. The Applicant has filed a non-frivolous post-conviction relief action. The Court has appointed Anna R. Good, Esquire, to represent the Applicant in this matter. The Applicant is currently serving a thirty year sentence in the Department of Corrections.
2. Applicant has raised concerns in speaking with counsel regarding his competency at the time of the incident and his guilty plea, including factors that may have affected his ability to make an intelligent and voluntary waiver of his rights. Applicant's Counsel believes that a forensic psychiatrist should be consulted to assist with this matter and is necessary to the post-conviction relief matter.
3. Therefore, Counsel for the Applicant requests the Court to authorize the Commission on Indigent Defense to pay an amount of up to Five Thousand and no/100 (\$5,000.00) Dollars for the services of Forensic Psychiatrist, Amanda Salas, MD.

Respectfully Submitted,

  
\_\_\_\_\_  
Anna R. Good  
Attorney for Applicant

Lexington, South Carolina

This 7<sup>th</sup> Day of July, 2015

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LEXINGTON )  
 )  
 Robert Baker, )  
 )  
 Petitioner, )  
 )  
 -vs- )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE FAMILY COURT  
 CIVIL ACTION NO.: 2012-CP-32-1112

CERTIFICATE OF SERVICE

Anna R. Good, certifies that on the 20th day of July 2015, she mailed the clocked Order for Payment of Funds and Authorization of Services and Amended Application for Post-Conviction Relief to Walt Whitmire, Attorney for the Respondent, by placing a copy of the same in the U.S. Mail with due and proper postage attached thereto, addressed as follows:

Walt Whitmire, Esquire  
 South Carolina Attorney General's Office  
 P.O. Box 11549  
 Columbia, SC 29211-1549

LAW OFFICE OF ANNA GOOD, LLC

By: Anna R. Good

Anna R. Good  
 PO Box 7284  
 Columbia, SC 29202  
 (803) 661-6758

Columbia, South Carolina

7/20, 2015

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	
	)	2012-CP-32-1112
Robert A. Baker, # 341795	)	
	)	
Applicant,	)	
	)	<b>AMENDED RETURN AND</b>
v.	)	<b>MOTION TO DISMISS</b>
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

---

In response to the post-conviction relief application filed by Robert A. Baker, (Applicant) on March 12, 2012, Respondent would show this Court:

I.

The Applicant is currently incarcerated with the South Carolina Department of Corrections pursuant to the Lexington County Clerk of Court's orders of commitment. The Applicant was indicted at the July 2010 term of the Lexington County Grand Jury for four (4) counts of criminal sexual conduct with a minor – 2<sup>nd</sup> degree, ages 11-14 (2009-GS-32-1597; -1600; -2101; -2103); and two (2) counts of committing a lewd act upon a child (2010-GS-32-2105; -2108). He was represented by David M. Mauldin, Esquire. On July 15, 2010, Applicant pled guilty as indicted. The Honorable R. Knox McMahon sentenced Applicant to confinement for a negotiated period of thirty (30) years.<sup>1,2</sup> Applicant did not appeal his guilty pleas or

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<sup>1</sup> Judge McMahon sentenced Applicant to ten (10) years imprisonment for indictments 2010-GS-32-2108, -2015, and -2103; twenty (20) years each for indictments 2009-GS-32-1597, -1600, and -2101. The twenty year sentence for indictment 2009-GS-32-1600 was set to run consecutive to the ten year sentence on indictment 2010-GS-32-2103. The remaining terms were set to run concurrently to one another.

<sup>2</sup> Judge McMahon also revoked Applicant probation stemming from an earlier, unrelated guilty plea to assault and battery of a high and aggravated nature (ABHAN) (2006-GS-32-3893). Judge McMahon ordered Applicant to serve the remaining ten (10) years on that sentence, consecutive to other sentences issued that day. This

sentences.<sup>3</sup>

## II.

Applicant filed this application on March 12, 2012, alleging the following grounds verbatim for relief:

1. Ineffective assistance of direct appeal counsel; specifically
  - a. "Failure to introduce evidence of Mental Incompetence."
2. Denial of Due Process.

On July 2, 2012, Applicant filed a document captioned "Amended Application for Post-Conviction Relief," in which he raised the following additional allegations for relief:

1. Ineffective assistance of Counsel; specifically
  - a. "Failure to introduce evidence of DNA does not match accused";
  - b. "Failure to introduce evidence of mental incompetency";
2. Denial of Due Process;
3. "Prosecutorial misconduct due to Brady/Riddle violation."

For the purpose of this return, Respondent incorporates the Lexington County Clerk of Court's records regarding the subject guilty pleas, convictions, records from the South Carolina Department of Corrections, and Applicant's current PCR records. Respondent reserves the right to amend this return upon receipt of any relevant materials.

## III.

Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the

---

<sup>3</sup> Applicant *did*, in fact, appeal the revocation of his probation on the grounds that Judge McMahon erred in revoking his probation in full and ordering the probation revocation to run consecutive to his separate, thirty-year sentence. The South Carolina Court of Appeals dismissed Applicant's probation revocation appeal in an unpublished, written opinion. State v. Robert Allen Baker, 2012-UP-159 (S.C. Ct. App. filed March 7, 2012).

sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). Moreover, ignorance of the statute of limitations for filing a petition for post-conviction relief is not an excuse for late filing. Leamon v. State, 363 S.C. 432, 435, 611 S.E.2d 494, 496 (2005). Applicant pled guilty to the offenses he challenges on July 15, 2010. Applicant did not appeal *those guilty pleas or sentences*. Applicant was therefore required to file his application on or before July 16, 2011. This Application was filed on March 12, 2012, which was well after the statutory filing period had expired.

Summary dismissal of a PCR application is appropriate when the application is filed after the statutory filing period. Leamon, 363 S.C. 432, 611 S.E.2d 494. In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings...that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, Respondent requests that this Court summarily dismiss the application for post-conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

#### IV.

Respondent denies each allegation not expressly admitted, qualified or explained

*[Signature block on following page]*

V.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired.

Respectfully submitted,

ALAN WILSON  
Attorney General

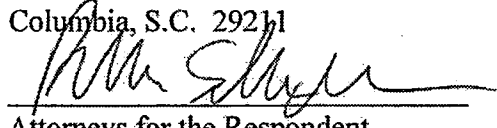
JOHN W. McINTOSH  
Chief Deputy Attorney General

SUZANNE H. WHITE  
Assistant Deputy Attorney General

PATRICK L. SCHMECKPEPER  
Staff Attorney

P.O. Box 11549  
Columbia, S.C. 29211

By:

  
Attorneys for the Respondent

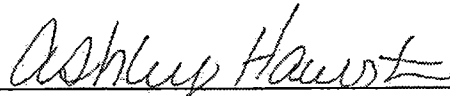
Columbia, South Carolina  
July 9<sup>th</sup>, 2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
	)	
	)	2012-CP-32-1112
ROBERT A. BAKER, #341795,	)	
	)	
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 **Amended Return and Motion to Dismiss** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Mrs. Anna Rawl Good, Esquire**  
**Law Office of Anna Good, LLC**  
**PO Box 7284**  
**Columbia, SC 29202**

DATED this 9<sup>th</sup> day of July, 2015.

  
 Ashley Haworth, Legal Assistant  
 For Respondent

B. A. C. 58  
Lexington

State of South Carolina - County of Lexington

Robert a. Baber #341795 } YAMC: 12-CR-32-1112-PCR.  
 Petitioner; } Supplemental Amend to PCR to let  
 - US- } Court, A.R. Good, & Atty. General know  
 State, et. al. } Re: tampering with my mails &  
 } Lock down punished for others.  
 Defendants; }

1). Petitioner seeks to Supplemental Amends his PCR to inform Court of his Atty. A. R. Good & Atty. General, def's. are intercepting his mails & opening it & forging Court orders; see attached pages 4; Petitioner seeks to file in Fed. Ct. on this crime; &

2). Petitioner seeks for Clerk Court to serve A.R. Good & A. Gen. & Judge; a copy so they can move to stop these felony acts; & Frank S. Potts (STAA) Ins. Rev. lawyer he needs to be;

3). Amcl. Re: SCDC - has us locked down punishing me & others for some body else, & because I filed suit 615-3549-RBH, so they can stop mails, phones, visits, & law library access, & 30 guards & staff can get their hands on my mails & others to read & give HQ staff.

Petitioner prays Court, Good, & Gen. will order this stayed at once, & send me a copy Filed & Whom Notified by Clerk.

Respectfully submitted;

Date Sept. 12, 2015 x Robert Allen Baber #341795  
Petitioner

KCI-R2-A-208/4344 B. R. Rel / Cda, S. G. 29210.

(4 pages)

FILED  
SEP 18 2015  
CLERK OF COURT  
LEXINGTON, SOUTH CAROLINA

Clerk  
BA  
Lanning

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
TO BE RETURNED TO:

Clerk's Office-United States District Court (District of South Carolina)  
300 East Washington Street - Room 239  
Greenville South Carolina 29601

COMPLAINT

Robert A. Baker #341795 - Richard his  
Enter the full name of the plaintiff in this action  
Counsel Arma R. Good, & other Counsel 27/8

Julian E. Rochester; Once, Pose Kidney Center -  
SON/ADA & Baptist Preacher - God's leader, all Preaches,

L.B. Stirling - Dir. J.2. R.B. Harwell - F.J. 3. Kuf.

McDonald - W. M. of 3, 477 conspirators, et al, 10/8/5,  
Enter above the full name of defendant(s) in this action

Civil Action No. \_\_\_\_\_  
(to be assigned by Clerk)

42 USC 1983, 1985(3), 1986 & a  
Bribe & (PTAC) & state tort suits &  
4th, 6th, 13th, 14th Amendments & Privacy &  
Att. & Client Victimization & 1st Amend.

I. PREVIOUS LAWSUITS

rights to send mails, Sec 6117-13-RBH  
Exhausted (PTCA).

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonment? Yes  No

B. If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.

1. Parties to this previous lawsuit:

Plaintiff: Probes of S. Billum - Plan

Defendant(s): B. McKie, & with Nettles & R. Stevenson & B. McKie

2. Court: SCUSDC & Richland County, S.C. & Orange Co., SC  
(If federal court, name the district; if state, name the county)

3. Docket Number: 6:15-3549-RBH is again off of 9:14 720-DCN-BJM 46:15-1686 & 1918 & 3224  
& 3258-RBH & ones listed therein & 03-04-40-4928 & 14-05722-County.

4. Name of Judge to whom case was assigned: DCN-B. Morrison & took illegally by Kuf.  
McDonald & R. B. Harwell & H.R. & Fraser, & never by McBride.

5. Disposition: Pending & all other pending mail box Rules & Data, can't keep down cases  
(For example, was the case dismissed? Appealed? Pending?)

6. Approximate date of filing lawsuit: 8-20, 15 / 4-8-15 / 4-22, 15 / 7-25, 15 / 7-25-15 / 8-5-03

7. Approximate date of disposition: 9-4-15 / 5-15-15 / 6-1-15 / ? / ? / Pending

8-14-08-40-05722-County - Pending 6-19, 14 & 8-1-15 by H.R. DeF.

(9-12-15, 9-12-15)

Clark  
B. # 60

II. PLACE OF PRESENT CONFINEMENT

A. Name of Prison/Jail/Institution: KC1-F2-A-208 # 115 A

B. What are the issues that you are attempting to litigate in the above-captioned case?  
Mail Temporarily Discontinued, & Atty. & Client Vids. to send & get mails, & rights to receive & John suits Violated to Judges & Defs. Atty. & Clients Ferged & Postages kept. 4th, 6th, 13th, 14th Amendments & Privacy Vio's. & Caused Harms & Losses, etc. 1st denied P. CF.

C. (1) Is there a prisoner grievance procedure in this institution? Yes  No   
a \$2 Billion a year scam one 6:14-784 & 1545 RBH & 6:15-822 & 1918-RBH.

(2) Did you file a grievance concerning the claims you are raising in this matter? Yes  No   
 When 8/23/15/7/24/15/7-13/7/29, 15 Grievance Number (if available) KC1-680-15/079670070-15 & 15-ALJ-04-0005/6/7/15 & BRCI-0235-115 & 0/23-15.

D. Have you received a final agency/departamental/institutional answer or determination concerning this matter (i.e., your grievance)? Yes  No

E. When was the final agency/departamental/institutional answer or determination received by you? 7-4, 15/7-27, 15 & 2-11, 15 & 8-6, 15 & 8-6, 15.  
 If possible, please attach a copy of your grievance and a copy of the highest level decision concerning your grievance that you have received. can't get, but Defs. have to turn over copies to Ct. & Procs & lawyers.

F. If there is no prison grievance procedure in this institution, did you complain to prison, jail, or institutional authorities? Yes  No

G. If your answer is YES:

1. What steps did you take? voice / 1911/105/1058/ letters/suits/ habeas/judicial complaints, etc.
2. What was the result? Def. sought to kill Procs & claimants & beat, gassed, & tortured. 1000s, & sold their bodies per profits, 6:15-3549-RBH & 6:15-1254-RBH & 1115-2044. Tim. H. Hasky & 3:15-00730-R.H. Sharp, & 14-CP-40-05222-Courtesy Clerk? all Ferged by

III. PARTIES def's. & FBI-CIA & max holders 6:15-1696 & 1918-RBH.

In Item A below, place your name, inmate number, and address in the space provided. Do the same for additional plaintiffs, if any.

A. Name of Plaintiff: Robert a. Baber Inmate No.: 341795 #  
(B) Anna R. local Atty LTC; Prisoner 7234, Cal., 30, 29202-803) 661-6788 Procs. 5/17/15 #  
 Address: KC1-4444-B.R. D., F2-A-208, Cal., S.C., 29210 &  
(C) J. E. Rochester, Ohio, KC1-F2-4115 / 4344 B.R. Rd., Cal., S.C., 29210

In Item B below, place the full name of the defendant, his official position, and place of employment in the space provided. Use Item C for additional defendants, if any.

B. Name of Defendant: B. Stirling Position: Dir. of Satans Dens  
 Place of Employment: SCDC HQ, 21787/4444, B.R. Rd., Cal., S.C., 29221

C. Additional Defendants (provide the same information for each defendant as listed in Item B above):  
(2) R.B. Howell & (3) K.F. McDonald - 450C-300 E. Wash. Street ST. Pm-239, Greenville, SC, 29601,  
(4) U.S. Gov. (5) C.W. Davidson - Atty, (6) John Lay - Atty, (7) J. R. Flippins - Atty, (8) James  
Mc. Poirier, Jr. Atty. at 1611 Doranshire Dr., 2nd Floor, P.O. Box 6508, Cal., S.C., 29202 & (9)  
Wm. Neffes - U.S. Atty, 1441 W. 1st St., Cal., S.C., 29202 & (10) FBI-CIA - Dir. & (11) U.S. Marshals Dir.  
(12) Unknown Fergers, (13) Postal Serv. Dir. et al.

Clock  
B of C

IV. STATEMENT OF CLAIM

State here as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an extra sheet if necessary.

1). Probes did send & join suits 9.14.72-DCN-BM by c. (Spin off) Hester, sent 8 ps. 8-30-15, to U.S.D.C. - Charleston, S.C., to Judges DCN-B Merchant, to handle, it served DeB. Atty. W. Davichon, J. Lay, T.R. Flippin, J.M. Davis, Jr. at Columbia, S.C., in same state their copies; but DeB. & Fingers intercepted them & never allowed them to get suits, see proof 6:15-3549-RBH-KFM - in re: deB. Fingers conspirators some judges, not Atty., not any deB. to conceal their felony acts, plus they by law could not remove ProSe R. Baker, from suits; not take case from DCN-BM; not handle ProSe cases by they covered up & protected SCDC & selfs of DeB.; to conceal Fingers Judges, Clerks, Civil Rights Lawyers, & all Gov. agencies names, orders, letters, & conflicts existed see pages 5 to 6 in 6:15-3549-RBH as ProSe 6-14-1298-RBH-(CRT) hidden detainees; &

2). Probes sent A. R. Good - Court Filings 8-16-15, of 6 ps. & Summons & Compl. Notices with a stamped Envelope to send (Home Warner & Bill Gates, Inc) 6:14-3770 & 6:15-1696 & 2020 & 2240 & 2574-RBH & CB-CP-40-4328 & 14-03222-CP, to de Food selfs to notify all & Billion def's, & 3/4 population, DeB. Fingers intercepted them, to Court time Warner Center, New York, N.Y., 10019; &

3). Probes sent Danny's Corp. 8 ps. Summons & Compl. Notices on 8/11/15, to 2049 E. main St, P-8-6, Spartanburg, S.C., 29319, & to notify Gates & Times, & all def's, & (Cher-The Singer) & make up to 1 Billion, DeB. blocked it, &

4). Probes sent K. Paul Emile & Barbara Olshausky - Constal. Atty, 5 ps. on 8-19-15 - to Center For Constal. Rights, 666 Broadway, New York, N.Y., 10012; &

5). Probes sent F.S. Pitts Atty. For (STAA) on 7/26/15 of 5 ps. & Summons CB-4328 to settle defaulted Judge. \$900-QZs, \$477-Ts, \$52 Bs, \$479-Ts, & notify DeB., & served Clerk J.W. McBride original, & Atty. H. L. Devose, Jr. 5 ps. 8-13-15, & Atty. T. Regent Don Westbuck 5 ps. 8-13-15, & Fed. Public defenders 8-13-15 of 5 ps. all blocked, & no warrant served. Probes, to open & take these mails & was in 6:15-1696-RBH & 2833-RBH, covered kisses.

IV. STATEMENT OF CLAIM - continued.

2015  
2016  
2017  
2018  
2019  
2020  
2021  
2022  
2023  
2024  
2025

State briefly and exactly what you want the court to do for you.

(Hold Emergency hearings)

6). Petors seek jury trial for punitive damages & profits by Judges, & 10  
Ten Billion for viol-ing Petors's 4th, 4th, 6th, 13th, 14th. Amendments, &  
privacy & Atty. & clients privileges rights to send & get mails & Petors rights to  
seek reliefs in Fed. & state courts to stop harms-death, & to protect Petors  
& Billion by Injunctions;

7). Petors def's. Judges Howell & McDondal to recuse & "forgers", & for Judges DCN-  
& B.M. to handle suits, & to take back 6:15-3549 RBH-suits, & Fees already  
paid by J-Beck - God's leader - 7 times on same def's, Felony acts see 6:15-3224  
& 3258 RBH, as proof, & Process under "Imminent danger" by issues in  
6:15-3549-RBH - lives in danger - AIDS & HIV & Hepatitis B/C, & Def's plots to  
kill Petors, & to use any new fees to Def's, 1915 (b) (4) & (F-1);

8). Petors seeks state tort action on each def's? 22 million in personal reliefs  
from their Ins. Bond carriers & Home Owners Policies; & 77 Billion in loss  
Profits Prade Baker & A.R. Good - steal to make in handling suits of J-Beck's in  
above cases & loss business handling cases for Def's; & 14 million for loss  
Postages & labors & for Injunction for mail to be allowed and phone access &  
reliefs in 3549-RBH, & any other cases modeled & A.R. Good, & other Atty's, seeks to;

I declare under penalty of perjury that the foregoing is true and correct. by (1842/1623)

Signed this 12 day of September

20 15

Lead Petor:

Robert Allan Baker

# 871795

Signature of Plaintiff

Kidnap Prade Citizen - Et

Date Sept. 22, 2015

Julian E. Rockstar, since

# 171579

Deputy Prader - J. Beck - God's leader

Kidnap Citizen status

For all Fees & Billion - Plus

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
County of Lexington	)	2012-CP-32-1112
	)	
ROBERT A. BAKER,	)	
	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT,	)	

June 1, 2017  
Lexington, South Carolina

BEFORE:

THE HONORABLE WILLIAM P. KEESLEY, JUDGE.

APPEARANCES:

MELODY BROWN, ASSISTANT ATTORNEY GENERAL  
Attorney for the Respondent

ROBERT A. BAKER, APPEARING PRO SE

KAREN AMBROZIAK  
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: This is in the matter of Robert Baker  
2 versus the State of South Carolina. Mr. Baker filed a  
3 Post Conviction Relief action, and I have been trying to  
4 set up a status conference to find out where we are with  
5 regard to the status of this case and to address some of  
6 the issues that appear in the file.

7 The most recent correspondence of Mr. Baker concerned  
8 his access to the law library at Lieber, I believe,  
9 Correctional Institution.

10 MR. BAKER: Yeah.

11 THE COURT: All right. You're Robert Baker, sir?

12 MR. BAKER: Yes, sir, I am.

13 THE COURT: Okay. You can have a seat. Mr. Baker,  
14 let me ask you some questions about -- just on the status  
15 of where we are.

16 MR. BAKER: Yes, sir.

17 THE COURT: How many attorneys have been appointed to  
18 you, just Ms. Good?

19 MR. BAKER: Just that was it, one.

20 THE COURT: Ms. Anna Good was appointed to you.

21 MR. BAKER: Yes, Anna Good.

22 THE COURT: And you -- you made a motion to relieve  
23 her as your attorney, right?

24 MR. BAKER: Yes. She -- there was no communications,  
25 Your Honor. There -- I mean, I asked -- I got -- I got

1 paperwork showing that I wrote her multiple times asking  
2 her to come and see me, give me my file, give me a copy of  
3 what she had and everything, and you know, she -- she just  
4 wouldn't -- wouldn't respond. When I -- I -- when I wrote  
5 actually two motions, the first one got denied. The  
6 second one got granted by the Honorable...

7 THE COURT: Judge Kelly.

8 MR. BAKER: Yes, sir.

9 THE COURT: All right. So I saw the two motions that  
10 you filed. You filed one July 26th, 2016 and one  
11 October 25th, 2016. And then Judge Kelly issued an order  
12 on that last one on November 15th, 2016, and he directed  
13 in that order that you were to represent yourself unless  
14 you retained private counsel. And that's what I needed to  
15 discuss with you.

16 You have written and indicated that you've been  
17 diagnosed as having a traumatic brain injury?

18 MR. BAKER: Yes, sir. I -- I -- actually, I have  
19 documents if you need to see. I got traumatic brain  
20 injury, mild traumatic brain injury, and my school records  
21 actually brings up reading, spelling, comprehending  
22 difficulties all through school.

23 I didn't graduate, Your Honor. I graduated with a  
24 certificate. I guess I didn't graduate, but I didn't --  
25 have a high school diploma or a GED. I have a little

1 certificate saying I completed school.

2 THE COURT: All right. Did you understand when you  
3 were in front of Judge Kelly that if -- if Ms. Good was  
4 relieved that you would not have an attorney?

5 MR. BAKER: I mean, I -- I -- I was under the -- I  
6 mean, she -- I don't know. I don't know, Your Honor. I  
7 mean, there's no way I can do this by myself. There is no  
8 way.

9 THE COURT: All right. If I appoint another lawyer  
10 for you, you understand you're going to have to do your  
11 best to get along with that lawyer?

12 MR. BAKER: Oh, it's communication and -- and like I  
13 said, I have trouble understanding. So if you're not  
14 talking to me, you know, and going through the processes,  
15 how am I going to understand what you -- to help you or to  
16 help myself because I'm trying to understand because  
17 that -- that's -- that's where it got all confused in the  
18 beginning because I didn't understand. I didn't know, you  
19 know, when -- when -- when -- when after -- when someone  
20 is supposed to help you not hurt you, you know.

21 And I wanted to understand. I wanted to understand  
22 for my benefit, so I have -- I mean, I -- for myself, you  
23 know what I mean?

24 THE COURT: Have -- have you been through any type of  
25 mental health evaluation?

1 MR. BAKER: Ms. Good gave me one, but I -- I -- I  
2 don't know what -- what the outcome was. I wrote her, and  
3 she sent me the file, but I don't -- I didn't have the  
4 evaluation. I don't have a copy of the evaluation.

5 THE COURT: Did you meet with a doctor?

6 MR. BAKER: I met with some lady and, you know, we  
7 was talking -- we was talking about everything, talking  
8 about Sesame Street and stuff like that, you know. And  
9 you know because I told her that -- about my, you know,  
10 education and stuff like that, and you know, we was -- you  
11 know, we was talking, and she -- she asked me questions  
12 and stuff, and you know, some of them I didn't understand.  
13 Some I did. I didn't, you know.

14 THE COURT: You don't remember who she was?

15 MR. BAKER: I do -- I do not because I didn't...

16 THE COURT: Do you know if she was a psychiatrist or  
17 a psychologist, or do you have any idea what her training  
18 was?

19 MR. BAKER: I -- I do not remember. I -- that's --  
20 that's -- as I said, I had -- I had traumatic brain  
21 injury, mild traumatic brain injury. I had two  
22 concussions, two skull fractures. I split my nose. I  
23 shattered my jaw, and I crushed my right ankle, short term  
24 memory loss, speech difficulties, stuff like that, you  
25 know. They had to put a trachea tube and gave me 24 hours

1 to live January 23rd, 2005.

2 THE COURT: Ms. Brown, do you have any indication  
3 about who might have seen him?

4 MS. BROWN: Yes, Your Honor. Ms. Good had moved for  
5 a psychiatric evaluation back in July 2015 by Dr. Amanda  
6 Salas, S-A-L-A-S, and authorization was granted July 20th.  
7 That would be the only name that I found in the file.

8 THE COURT: So you -- you think you met with Amanda  
9 Salas?

10 MR. BAKER: It...

11 THE COURT: It was somebody Ms. Good arranged for?

12 MR. BAKER: Yes, sir, a lady.

13 THE COURT: But you never saw the report?

14 MR. BAKER: No, sir. I never saw her before. I  
15 didn't.

16 THE COURT: No, not before. You never saw a report  
17 from her?

18 MR. BAKER: I don't have that. I don't have nothing.

19 THE COURT: Okay.

20 MR. BAKER: I'm missing -- I mean, actually I'm  
21 missing the -- I will see. I mean, I'm sure she has  
22 brought what she just needed, but there is paperwork that  
23 I think you signed, if I'm not mistaken, asking the  
24 Lexington County Sheriff's Department, Detention Center,  
25 to give up the records from my -- the time I was there,

1 and the only thing I have was just the -- the order from  
2 her to them because she is -- and the thing -- and the  
3 thing is...

4 THE COURT: Is that big bag over there -- is that  
5 full of records?

6 MR. BAKER: Records, stuff like that. I also -- I --  
7 these are -- these -- this right here is where I have  
8 copies, and I -- I kind of ran up a bill copying this  
9 stuff that I needed.

10 I mean, I got a -- the guy who was helping me, you  
11 know, he's -- you know, he said that I needed -- I needed  
12 four copies, so that's what I needed. I went and got four  
13 copies of --

14 THE COURT: You're talking about the inmate helping  
15 you?

16 MR. BAKER: Yes, sir.

17 THE COURT: Okay. Let me get back to where I was.

18 MR. BAKER: Okay.

19 THE COURT: No. Don't go off on a tangent on me.

20 MR. BAKER: Yes.

21 THE COURT: Just hang in there with me. You -- you  
22 recall meeting with a doctor. We think it was Dr. Salas  
23 based on what Ms. Brown just said, but you never saw a  
24 report, and you only met with her one time?

25 MR. BAKER: Not long either.

1 THE COURT: Okay. When you -- when Judge Kelly  
2 removed Ms. Good as your lawyer --

3 MR. BAKER: Yes, sir.

4 THE COURT: -- did she give you a file?

5 MR. BAKER: I had to -- I basically had to write her.  
6 I wrote the Clerk of Court.

7 THE COURT: I don't care when. Did your ever get  
8 your file?

9 MR. BAKER: I got my file from her, but it was not in  
10 there.

11 THE COURT: What was not in there?

12 MR. BAKER: The -- the -- the report.

13 THE COURT: Okay.

14 MR. BAKER: And neither was this, this thing I'm  
15 trying to -- to...

16 THE COURT: How about this, Mr. Baker?

17 MR. BAKER: Yes, sir.

18 THE COURT: How about I appoint you another lawyer --

19 MR. BAKER: Okay.

20 THE COURT: -- and let's see. You're still at  
21 Lieber, right?

22 MR. BAKER: Yes, sir. I'm out at Lieber.

23 THE COURT: You don't know of any transfer that's  
24 going to happen?

25 MR. BAKER: A what, transfers?

1 THE COURT: You haven't heard about anybody  
2 transferring you anywhere, have you?

3 MR. BAKER: I don't -- I don't get that information.

4 THE COURT: Okay. I imagine part of the problem is  
5 the distance between Lexington and Lieber. So I'm  
6 probably going to have to ask that attorney to request  
7 some additional funding. Now, did you -- did you say  
8 somebody is here from SCDC about the...

9 MS. BROWN: Yes, sir.

10 THE COURT: If I appoint him an attorney, then this  
11 issue about the law library, I can address that after the  
12 attorney gets on board if there is any issue.

13 Has -- you wrote me about the law library access.

14 MR. BAKER: Yes, sir. Judge, what -- what that is  
15 is -- is they -- they -- in the policy, they say  
16 37-and-a-half hours, and it takes me longer to under -- to  
17 really understand something small.

18 So -- and I got -- like I said, I got records talking  
19 about traumatic brain injury, mild traumatic brain injury,  
20 and reading, spelling and comprehending difficulties. I  
21 have records of all of that, and -- and -- and I'm trying  
22 to get in there as much as possible so that I can -- I can  
23 get a grasp on something.

24 Instead of a window this small, I even have  
25 37-and-a-half hours a week. I mean, it's not -- and SCDC

1 talks about that you need to go off Policy and Procedure,  
2 well, then they need to practice what they preach because  
3 if I had to go off of it and do what they want me to do  
4 and what I'm required, shouldn't they?

5 THE COURT: I -- I don't know what you mean,  
6 "shouldn't they".

7 MR. BAKER: I mean, shouldn't they have to give me  
8 the 37-and-a-half hours?

9 THE COURT: Well, I can hear from them as to --  
10 they -- I think they have records about how much access  
11 you've been given.

12 MS. BROWN: Your Honor, this is Ms. Rumbler from  
13 General Counsel's Office, South Carolina Department of  
14 Corrections. I think she has the records you may be  
15 referencing.

16 MS. RUMBLER: Yes, Your Honor, I do. I think that  
17 maybe the confusion is coming from our policy. It does  
18 say that the law library is to be opened 37.5 hours per  
19 week. That's the law library being opened and available  
20 to the entire population of the institution.

21 Having one particular inmate have access 37.5 hours a  
22 week when our institutions run on controlled movement  
23 would be an extremely difficult thing for SCDC to do  
24 logistically speaking.

25 The way that they have the hours broken up is usually

1 by dorm, and so they would have a particular dorm come on  
2 a particular day. Mr. Baker is allowed to come when his  
3 dorm is scheduled to come. He is also on the list. We  
4 have a list of inmates who have upcoming court deadlines,  
5 and so on that list, they can come on any day.

6 So Mr. Baker is allowed to come to the law library  
7 any time it is opened as long as we have the staff to  
8 accommodate that with controlled movement.

9 He -- he has come to the law library very regularly.  
10 I have the library logs from January through April of this  
11 year. He comes very regularly, much more often than most  
12 inmates.

13 We're not preventing him from coming. We're just --  
14 we're accommodating it as far as we're able, and I think  
15 that maybe the 37.5 hours is just a misunderstanding.  
16 That requirement in our policy is that the law library be  
17 opened not that it be available to any particular inmate  
18 for that period of time. That would be impossible to be  
19 honest.

20 MR. BAKER: How? That's crazy.

21 MS. RUMBLER: And we have -- I have attempted to  
22 explain this to Mr. Baker via our law librarian because we  
23 have gotten some requests of staff where he is asking -- I  
24 need the whole 37.5, and I was thinking maybe I think he  
25 is confused. She has told me she has been having

1 conversations with him.

2 I think maybe that's a confusion that hasn't been  
3 appropriately remedied. Maybe that conversation hasn't  
4 happened because I don't work at the institution  
5 personally.

6 MR. BAKER: That's crazy.

7 MS. RUMBLER: I never met Mr. Baker prior to today.  
8 I haven't explained it to him because I never met him, but  
9 I think that's maybe where that confusion is coming from.

10 THE COURT: Thank you, ma'am.

11 MS. RUMBLER: Yes, sir.

12 THE COURT: Here is what I'm going to do. I'm going  
13 to appoint him a different lawyer, and I don't know who  
14 that will be, Mr. Baker. They'll have to tell me at the  
15 Clerk's Office or through Indigent Defense, and I need to  
16 have him evaluated whether that's something done by the  
17 Applicant's counsel or not. I need to have him evaluated  
18 so I can know exactly what we're dealing with, and I think  
19 that's about all we can do today.

20 MR. BAKER: Well, I mean, Your Honor, I...

21 She said that the librarian talks to me. I don't --  
22 I really don't -- I mean, she -- she asked me where is my  
23 paperwork at because when you wrote me this letter, you  
24 know, you're talking about that, you know, about you have  
25 to show documents, and SCDC policy, as she knows since she

1 is the General Counsel, it talks about you got to show  
2 documentation. My -- my PCR has been pending since 2015.  
3 Excuse me, 2012, I'm sorry, 2012, and it got approved in  
4 '15.

5 So if -- it's -- it's a continuing thing, why -- I  
6 mean, how -- why do I have to show a pending case when it  
7 keeps on going and going and going like the Energizer  
8 Bunny, you know what I mean?

9 THE COURT: No, sir.

10 MR. BAKER: It's not -- it's not -- it -- I mean, I  
11 have to write the Court every time I need a document?

12 THE COURT: I haven't seen anything that says you  
13 have to write the Court every time you have to write a  
14 document.

15 MR. BAKER: If you look at -- at the part where it  
16 talks about deadlines 30 days, and it talks about you have  
17 to show -- show documents for pending cases. You know --

18 THE COURT: You mean show that you're on an upcoming  
19 docket, court docket?

20 MR. BAKER: I don't know. I mean, that -- that --  
21 the policy --

22 THE COURT: She says you're on that list --

23 MR. BAKER: Right.

24 THE COURT: -- so you can have access.

25 MR. BAKER: Okay. And then 30 days are up, they --

1 they done asked me again, where is your paperwork, where  
2 is your paperwork, where is your paperwork, and that's the  
3 whole problem that -- that I'm having because they're --  
4 they're asking me for something that I don't know -- I  
5 don't know how to get or -- because I keep on telling them  
6 on the kiosks and through request forms to please contact  
7 the Attorney General's Office, two -- two attorneys at --  
8 the Senior Attorney General and let her explain the whole  
9 thing. And -- and I don't know. That's all I can do is  
10 have them contact her.

11 I mean, that's like their lawyer and that, you know,  
12 I mean that's the Attorney General's Office represents  
13 SCDC. So I mean -- so how come they can't pick up a phone  
14 and say hey, what's the deal.

15 And -- and I don't know if they just want to keep on  
16 harassing me and -- and -- and -- and not do that or what.  
17 I don't know. I mean, I try to do what the stuff -- the  
18 policies that everybody tells me to do.

19 I mean, this week and last week -- last week I've  
20 only been but one time last week, and then this week  
21 they -- they just had a riot yesterday. So we're smashed  
22 again, so -- and when we're on smash and lack of  
23 security -- they always call lack of security -- we can't  
24 get into the law library.

25 THE COURT: Well, I'm going to appoint you an

1 attorney who has been through three years of law school  
2 and has experience in handling these cases, and the  
3 attorney should be able to help you. You -- you wouldn't  
4 be needing to do all of that independent research.

5 (Pause).

6 MR. BAKER: Um, all right.

7 THE COURT: And as far as the documents -- the  
8 document that you would get from the Clerk of Court's  
9 Office if you're representing yourself would be to tell  
10 you that there's an upcoming hearing that would be  
11 generated and mailed to you.

12 That would be what I think they're asking you for is  
13 if you got a hearing scheduled, the computers  
14 automatically send out these documents that say you have a  
15 hearing on such and such date at such and such time.

16 MR. BAKER: But I didn't -- since -- since you  
17 approved this, 2015, I -- I -- I've been trying to get  
18 into the law library, though. Even when I had Ms. Good, I  
19 still went to the law library. I still went, I mean  
20 because it was --

21 THE COURT: Mr. Baker, I'm not saying you can't go to  
22 the law library, and -- but -- but me sitting here talking  
23 to you about all of these problems you have had in the  
24 past is not getting us anywhere.

25 I'm going to appoint you a different lawyer, and

1 you're going to have access to the law library. But what  
2 she says is reasonable. You can't be in there every  
3 minute that they're open, necessarily, because it's an  
4 institution, and they have to control the population.

5 So, you know, talk to your attorney about these  
6 things. If you have got legitimate grievances that can be  
7 raised, I'm sure that those can be brought up and  
8 addressed and we can focus in on one thing and not just  
9 talk about a whole series over the years of problems.  
10 That's what we're going to do.

11 We're in recess.

12 Thank you.

13 (Whereupon, the proceedings were concluded.)  
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1 State of South Carolina )  
 2 County of Lexington )  
 3 Robert Allen Baker, )  
 4 Petitioner/Plaintiff, )  
 5 vs. )  
 6 State of South Carolina, )  
 7 Respondent/Defendant. )  
 8 \_\_\_\_\_ )

In the Court  
 Of Common Pleas  
 Case No.: 2012-CP-32-01112

Transcript of Record

9  
 10 February 20th, 2018  
 11 Lexington, South Carolina

12 BEFORE:

13 The Honorable J. Derham Cole, Judge

14  
 15 APPEARANCES:

16  
 17 Arthur K. Aiken, Esquire  
 Attorney for the Petitioner/Plaintiff

18  
 19 Sherrie Butterbaugh, Assistant Attorney General  
 Attorney for the Respondent/Defendant

20  
 21 ALSO PRESENT:

22 Robert Allen Baker

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1 Thereupon, the following proceedings were had,

2 BAILIFF: All rise. Judge Derham Cole presiding.

3 THE COURT: Thank you. Be seated.

4 MS. BUTTERBAUGH: Your Honor, the first case is  
5 Robert Allen Baker. We were here for an evidentiary  
6 hearing but we're gonna be heard on two motions and I  
7 have a Judge's packet for you. It is case  
8 2012-CP-32-1112. May I approach?

9 THE COURT: You may.

10 MS. BUTTERBAUGH: Mr. Art Aiken is representing  
11 Mr. Baker.

12 MR. AIKEN: Good morning, Judge Cole.

13 THE COURT: Good morning.

14 MR. AIKEN: How are you?

15 THE COURT: I'm doing fine. Thank you. I hope you  
16 are.

17 MR. AIKEN: I was aware of one motion. I didn't  
18 know there was two motions.

19 MS. BUTTERBAUGH: Well, I was going to argue a  
20 motion to dismiss the case and Mr. Aiken was going to  
21 argue a motion for a continuance.

22 MR. AIKEN: Oh, that's correct. Okay. I'm sorry.  
23 I thought you said you had two motions.

24 MS. BUTTERBAUGH: No.

25 MR. AIKEN: Okay. Your Honor, this is a memorandum

1 in opposition to their motion to dismiss.

2 THE COURT: Okay.

3 MS. BUTTERBAUGH: Your Honor, which motion would you  
4 like to hear first, the motion to dismiss?

5 THE COURT: Either one.

6 MS. BUTTERBAUGH: Okay. Uhm, well, in that case  
7 I'll do the motion to dismiss first.

8 THE COURT: Okay.

9 MS. BUTTERBAUGH: This case has been pending for a  
10 number of years. It's a 2012 case. It has a lengthy  
11 procedural history. Mr. Baker was indicted in Lexington  
12 County on about 18 charges in 2010. 12 of those were  
13 dismissed as part of his plea offer. He pled guilty July  
14 15th, 2010 to four counts of second degree criminal  
15 sexual conduct with a minor and two counts of lewd act  
16 upon a child. The Honorable Knox McMahon sentenced Mr.  
17 Baker to a negotiated term of 30 years imprisonment and  
18 also revoked his probation on an unrelated ABHAN and  
19 ordered him to serve that, the remainder of that sentence  
20 consecutive to the others.

21 David Mauldin represented him during the plea  
22 process. Mr. Baker did not appeal that guilty plea. He  
23 filed this PCR application March 12th, 2012 and he's  
24 filed several amended applications including one through  
25 his first PCR counsel Anna Broader. The State filed two

1 returns and moved to dismiss both times for violation of  
2 the statute of limitation arguing that his application  
3 was untimely by about eight months. PCR counsel during  
4 the interim made a motion for payment of funds seeking a  
5 forensic psychiatrist. There was an allegation in his  
6 application regarding ineffective assistance of counsel  
7 for failure to produce mental health history. The court  
8 authorized a payment of funds. To date, however, there  
9 is no word on whether that evaluation was ever done and  
10 the State has never received any report.

11 Mr. Baker moved to dismiss Ms. Broader on July 4th,  
12 2016. There was a hearing on that motion. The Honorable  
13 Edward Miller denied that motion and also denied the  
14 State's motion to dismiss and ordered an evidentiary  
15 hearing be set, however, Mr. Baker moved again to relieve  
16 PCR counsel and following another hearing the Honorable  
17 Keith Kelley relieved counsel on November 15th, 2016 and  
18 ordered the applicant to represent himself unless he  
19 retained private counsel and continue the case.

20 Subsequently Mr. Baker filed a motion to order  
21 access to the law library at Lieber Correctional. A  
22 hearing was held on that motion July 1st, 2017 before the  
23 Honorable William Keesley. There was some concern again  
24 regarding resolution of this case and questions about the  
25 mental health evaluation and whether a report was ever

1           created so Judge Keesley agreed to appoint a second  
2           attorney and that's how Mr. Aiken was appointed with the  
3           understanding that Mr. Baker would have to do his best to  
4           get along with Mr. Aiken and since that time the State  
5           has had no indication from Mr. Baker what allegations he  
6           wants to proceed on to prepare for this evidentiary  
7           hearing which was scheduled to go forward today.

8           So especially in light of these numerous submitted  
9           applications, the numerous hearings that have been set on  
10          the numerous motions that Mr. Baker has been afforded the  
11          State argues that this application can be dismissed for  
12          failure to prosecute. It's been pending since 2011. The  
13          State believes that he has been afforded multiple  
14          opportunities to come before this court before multiple  
15          judges to have his allegations heard and the applications  
16          and he has not taken advantage of that and it's the  
17          State's position that it can be dismissed. Thank you,  
18          Your Honor.

19          MR. AIKEN: Your Honor, I had a telephone conference  
20          scheduled with Mr. Baker last week and apparently there  
21          was some confusion about whether he wanted to see me or  
22          wanted to speak with me or didn't want to speak with me  
23          so therefore I have not had a conversation with him to go  
24          over all of his allegations and determine exactly what he  
25          wanted to proceed with.

1 THE COURT: He's not been cooperative with you?

2 MR. AIKEN: I'm not saying he wasn't cooperative,  
3 Your Honor. I think there was some confusion at the  
4 Department of Corrections.

5 THE COURT: What was the confusion?

6 MR. AIKEN: The confusion was apparently he was  
7 brought to, uhm, have a conversation with me on one day  
8 and they were supposed to call me back so that I could  
9 have a conversation with him. They told him that they  
10 called me back and he said he sat there for four and a  
11 half hours.

12 THE COURT: He being Mr. Baker?

13 MR. AIKEN: Mr. Baker. And he never got an  
14 opportunity to speak with me so when the next  
15 conversation was set, apparently he didn't understand  
16 that he was supposed to make himself available to speak  
17 with me and for that reason we never had a conversation.

18 THE COURT: Why was he not made available?

19 MR. AIKEN: They, the people at the Department of  
20 Corrections told me that, this is what they told me, that  
21 Mr. Baker did not want to speak with me but Mr. Baker  
22 tells me that's not correct.

23 THE COURT: Okay.

24 MR. AIKEN: That he did, in fact, want to speak with  
25 me.

1 THE COURT: All right.

2 MR. AIKEN: Now, as far as the motion to dismiss, as  
3 I understand the motion to dismiss is for failure to  
4 prosecute and also for not complying with the filing  
5 requirements that the PCR be filed within one year.

6 The one year statute of limitations is in SC code  
7 section 17-27-45(A) and it says an application for relief  
8 pursuant to this chapter which is the PCR chapter must be  
9 filed within one year after the entry of a judgment of  
10 conviction or within one year after the sending of the  
11 remittitur to the lower court from an appeal or the  
12 filing of the final decision upon an appeal whichever is  
13 later.

14 Mr. Baker pled on July 15th of 2012 and he received  
15 sentences for various sex crimes as well as a sentence  
16 for probation violation. On July 20th of 2010 Mr. Baker  
17 filed a notice of appeal appealing his probation  
18 conviction and his probation sentence. That appeal was  
19 actually dismissed in an unpublished opinion not for  
20 failure to perfect the appeal but on the merits on March  
21 7th, 2012, and then on March 12th of 2012 five days later  
22 Mr. Baker filed his post conviction relief application.

23 If you look at the case law and you look at the  
24 Uniform Post Conviction Relief Act, one of the purposes  
25 of the act was for there to be an orderly administration

1 of post conviction relief cases. In the statute of  
2 limitations provision refers to a judgment of conviction,  
3 entry of a judgment of conviction. My argument, and I'll  
4 admit there's no case law to support this, but my  
5 argument is that judgment of conviction means in a global  
6 sense. Everything you have been convicted of on that one  
7 particular day and you have been sentenced.

8 And the reason why I say that, Your Honor, is the  
9 cases are very clear that the applicant does not have the  
10 right to more than one PCR. If we accept the proposition  
11 that you have to appeal the whole judgment and the whole  
12 conviction, then what you are opening the courts up to is  
13 the filing of multiple, multiple post conviction relief  
14 applications, one for the unappealed conviction and one  
15 for the appealed conviction and that violates the  
16 cardinal rule of post conviction relief which is that  
17 there be orderly administration of post conviction relief  
18 cases.

19 So if you accept the proposition that judgment of  
20 conviction in the statute of limitations provision refers  
21 to the entire judgment and the conviction on that  
22 particular day, he did, in fact, appeal that when he  
23 appealed his probation violation and his sentence on his  
24 probation violation. That would extend the statute of  
25 limitations to one year from March the 7th, 2012 which is

1           when the appeal was dismissed on the merits and as I  
2           indicated he filed a post conviction relief application  
3           on March 12th of 2012 five days after that. Thank you,  
4           Your Honor.

5           THE COURT: Yes, ma'am. Any response?

6           MS. BUTTERBAUGH: Just quickly in response. The  
7           appeal is not, was not on the underlying convictions that  
8           he filed a post conviction relief on. The post  
9           conviction relief application was filed on the underlying  
10          convictions, guilty plea of the sex crimes, the csc,  
11          second degree csc and the lewd act upon a child and that  
12          is what these allegations were on and so regardless of  
13          whether he appealed his revocation of probation, that has  
14          no impact on this PCR application that is still pending  
15          but is untimely and that he has failed because he's not  
16          arguing any of the allegations against that.

17          THE COURT: He's not arguing against any  
18          allegations?

19          MS. BUTTERBAUGH: All of his allegations relate back  
20          to these sex crimes and they do not relate back to the  
21          ABHAN which is unrelated to the guilty plea.

22          THE COURT: I see. All right. What about the --

23          MR. BAKER: Is he going to let me speak?

24          MR. AIKEN: Actually you have to be heard through  
25          me.

1 THE COURT: What happened about the psychological  
2 evaluation that Ms. Butterbaugh said that money was  
3 provided to previous counsel but she doesn't know if it  
4 was done or if there's a result or anything?

5 MR. AIKEN: It was completed and he was found  
6 competent.

7 THE COURT: Okay. All right. Anything else?

8 MS. BUTTERBAUGH: No, Your Honor.

9 THE COURT: All right. Anything else?

10 MR. AIKEN: Nothing else.

11 THE COURT: I find the State's motion should be  
12 granted therefore it is. Give me an order please,  
13 ma'am.

14 MS. BUTTERBAUGH: Thank you, Your Honor.

15 WHEREUPON, THE HEARING WAS CONCLUDED.  
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CERTIFICATE OF REPORTER

(STATE OF SOUTH CAROLINA)  
(COUNTY OF LEXINGTON )

I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,  
and Official Circuit Court Reporter for the Eleventh Judicial  
Circuit in and for the State of South Carolina, do hereby  
certify that I reported the proceedings in the before  
captioned case in the Court of Common Pleas in and for the  
State of South Carolina on the 20th day of February, 2018.

I FURTHER CERTIFY that the forgoing 11 pages  
constitute a true and accurate record of said proceedings.

I FURTHER CERTIFY that I am neither related, counsel  
to, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand at  
Lexington County, this 13th day of January, 2019.

By:s/ Steven E. Leblanc

\_\_\_\_\_  
Steven E. LeBlanc, Sr., R.P.R.  
Eleventh Circuit Court Reporter  
State of South Carolina.

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

2018 SEP 13

IN THE COURT OF COMMON PLEAS  
FOR THE ELEVENTH JUDICIAL CIRCUIT

Robert A. Baker, #341795,

LISA M. COOPER  
CLERK OF COURT  
LEXINGTON SC

C/A No. 2012-CP-32-1112

Applicant,

v.

**ORDER OF DISMISSAL**

State of South Carolina,

Respondent.

This matter comes before this Court pursuant to an application for post-conviction relief filed March 12, 2012, and amended July 2, 2012, July 20, 2015, and January 17, 2017. The State made its first return July 10, 2012, and its second return July 9, 2015, and moved to summarily dismiss the action both times, arguing the application was untimely and violated the statute of limitations as set out in S.C. Code Ann. § 17-27-45(A).

Applicant moved to dismiss his first post-conviction relief attorney on July 4, 2016.<sup>1</sup> The Honorable Edward Miller heard the motion and denied it August 2, 2016, and also denied the State's motion to dismiss and ordered an evidentiary hearing be set. Applicant moved again on October 25, 2016, to dismiss his attorney and the Honorable Keith Kelly granted the motion on November 15, 2016, and ordered the applicant to represent himself unless he retained private counsel.

Applicant filed a motion March 15, 2017, to order access to the law library at Lieber Correctional Institution. A hearing was convened on the motion before the Honorable William Keesley on June 1, 2017. Following concern regarding resolution of the case and questions

<sup>1</sup> In the interim, counsel made a motion seeking funds for a forensic psychiatrist to complete a mental health evaluation.

about whether the mental health evaluation was completed, Judge Keesley ordered a second post-conviction relief attorney be appointed. Art Aiken was appointed to represent the applicant on June 6, 2017.<sup>2</sup>

An evidentiary hearing was scheduled for December 13, 2017. Through counsel, the applicant received a continuance.

An evidentiary hearing was scheduled for February 20, 2018, at the Lexington County Courthouse. Applicant and his attorney, Mr. Aiken, were present. Assistant Attorney General Sherrie Butterbaugh was present on behalf of respondent.

At the start of the hearing, respondent moved to dismiss the case for failure to prosecute pursuant to Rule 41(b), SCRCP, arguing respondent had no indication from the applicant what allegations he wanted to pursue in order for respondent to prepare for the hearing, in light of the numerous amended applications filed and the number of years the case had been pending. Counsel for the applicant indicated applicant refused to speak to him about what allegations he wished to argue at the hearing, and the applicant would not participate in a scheduled telephone conference on February 14, 2018. Counsel for the applicant opposed respondent's motion to dismiss arguing summary judgment was not appropriate.

An applicant has the burden of prosecuting his action, and this Court may dismiss an action for a plaintiff's neglect in proceeding with his cause. *McComas v. Ross*, 368 S.C. 59, 62, 626 S.E.2d 902, 904 (Ct. App. 2006) (citing *Don Shevey & Spires, Inc. v. Am. Motors Realty Corp.*, 279 S.C. 58, 301 S.E.2d 757 (1983)). Dismissal may be "imposed to maintain the orderly disposition of cases in the face of . . . multiple opportunities to proceed with trial, and only then upon a finding of unreasonable neglect." *McComas*, 368 S.C. at 62, 626 S.E.2d at 904.

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<sup>2</sup> Mr. Aiken indicated the evaluation was completed and applicant was found to be competent.

This Court finds the applicant has shown unreasonable neglect in prosecuting his post-conviction relief action. The Court finds the applicant was afforded numerous opportunities to be heard and pursue his case for relief over the course of the pending action, including the appointment of two experienced attorneys and the scheduling of both motions and evidentiary hearings. Through the applicant's failure to cooperate with appointed counsels, the applicant has continually frustrated the process of prosecuting his case. Accordingly, this Court finds applicant failed to prosecute his post-conviction relief action and the application must be summarily dismissed.

**Conclusion**

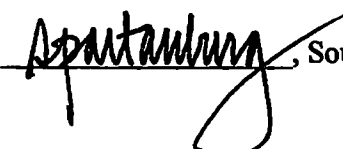
Therefore, the Court grants respondent's motion to dismiss this PCR application with prejudice. The Court notes the applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCR, provides if the applicant wishes to seek review, PCR counsel must file a notice of appeal on the applicant's behalf. Applicant's attention is directed to Rule 243, SCACR, for further procedures for appeal.

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 6 day of September, 2018.

  
THE HONORABLE J. DERHAM COLE  
Presiding Judge

, South Carolina

Lexington  
County  
S.C.  
X

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Criminal Sexual Conduct With a Minor  
2<sup>nd</sup> Degree  
11-14 years of age  
§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on 2009 June, the Grand Jurors of Lexington County present upon their oath:

That **Robert Allen Baker** did in Lexington County, South Carolina between December 1, 2008 and December 31, 2008 commit a sexual battery upon 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 upon Minor 2 [redacted], date of birth: [redacted]-95, in violation of Section 16-3-655(B)(1), S.C. Code of Laws, 1976, as amended.

A TRUE COPY  
*[Signature]*  
Lex. Co. C.C.C.P., G.S. & F.O.

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

*Debra B. Moore*  
ASSISTANT SOLICITOR

~~WITNESSES~~

Lexington County Sheriffs Department

Edward Prestigiacomo

Law Enforcement Case #:

DBM

ARREST WARRANT NUMBER

J848089

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury

Date: 6-8-09

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009GS3201597

**The State of South Carolina**

**County of Lexington**

COURT OF GENERAL SESSIONS

2009 TERM June

THE STATE

vs.

Robert Allen Baker

CDR #: 0396

Indictment for

Criminal Sexual Conduct With a Minor

2<sup>nd</sup> Degree

11-14 years of age

§ 16-03-0655(B)(1)

DONALD V. MYERS, SOLICITOR



Lexington  
Court  
X

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Criminal Sexual Conduct With a Minor  
2<sup>nd</sup> Degree  
11-14 years of age

§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on June 2009, the Grand Jurors of Lexington County present upon their oath:

That **Robert Allen Baker** did in Lexington County, South Carolina on or about January 12, 2009 commit a sexual battery upon 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 upon Minor 2 [redacted], date of birth: [redacted]-95, in violation of Section 16-3-655(B)(1), S.C. Code of Laws, 1976, as amended.

A TRUE COPY  
*[Signature]*  
Lex. Co. C.C.C.P., G.S. & F.C.

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

*Debra B. Moreie*  
ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Edward Prestigiacomo

Law Enforcement Case #:

DBM

ARREST WARRANT NUMBER

J848087

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury

Date: 6-8-09

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009GS3201600

**The State of South Carolina**

**County of Lexington**

**COURT OF GENERAL SESSIONS**

**JUNE TERM 2009**

**THE STATE**

**vs.**

**Robert Allen Baker**

**CDR #: 0396**

**Indictment for**

**Criminal Sexual Conduct With a Minor**

**2<sup>nd</sup> Degree**

**11-14 years of age**

**§ 16-03-0655(B)(1)**

**DONALD V. MYERS, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Criminal Sexual Conduct With a Minor  
2nd Degree  
11-14 years of age

§ 16-03-0566(B)(1)

At a Court of General Sessions, convened on July 2010, the Grand Jurors of Lexington County present upon their oath:

That **Robert Allen Baker** did in Lexington County, South Carolina between January 1, 2009 and January 13, 2009, commit a sexual battery; to wit: defendant forced the victim to perform oral sex, upon a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age; to wit: Minor 1, date of birth [redacted]-94, in violation of § 16-3-655(B)(1) of the Code of Laws of South Carolina, 1976, as amended

**A TRUE COPY**

  
\_\_\_\_\_  
Lex. Co. C.C.C.P., G.S. & F.C.

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

Edward D. Prestigiacomio

Law Enforcement Case #: 09003587

DBM

ARREST WARRANT NUMBER

10-STR-00085

ACTION OF GRAND JURY

**TRUE BILL**

*Ym Head*  
Foreperson of Grand Jury  
Date: 7/12/10

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2010GS3202101

**The State of South Carolina**

**County of Lexington**

**COURT OF GENERAL SESSIONS**

**JULY TERM 2010**

**THE STATE  
vs.**

**Robert Allen Baker**

CDR #: 0396

**Indictment for**

**Criminal Sexual Conduct With a Minor  
2nd Degree  
11-14 years of age**

**§ 16-03-0655(B)(1)**

**DONALD V. MYERS, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
 Criminal Sexual Conduct with a Minor  
 2nd Degree  
 11 - 14 years of age

§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on July 2010, the Grand Jurors of Lexington County present upon their oath:

That **Robert Allen Baker** did in Lexington County, South Carolina on or about January 13, 2009, commit a sexual battery; to wit: sexual intercourse upon a minor, who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: Minor 1, date of birth [REDACTED]-94, in violation of Section 16-3-655(B)(1), S.C. Code of Laws, 1976, as amended.

**A TRUE COPY**

*[Signature]*  
 Lex. Co. C.C.C.P., G.S. & F.C.

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

*[Signature]*  
 ASSISTANT SOLICITOR



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Committing or Attempting a Lewd Act  
Upon a Child

§ 16-15-0140

At a Court of General Sessions, convened on July 2010, the Grand Jurors of Lexington County present upon their oath:

That **Robert Allen Baker** did in Lexington County, South Carolina between December 1, 2008 and December 31, 2008, being a person over the age of fourteen, willfully and lewdly commit or attempt a lewd or lascivious act upon or with the body, or its parts, of a child under the age of sixteen years, to wit: Minor 1, date of birth: [redacted]-1994, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the person or of the child, to wit: the defendant fondled and licked her breasts, in violation of § 16-15-140 of the Code of Laws of South Carolina, 1976, as amended

**A TRUE COPY**  
*[Signature]*  
Lex. Co. C.C.C.P., G.S. & F.C.

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

*[Signature]*  
ASSISTANT SOLICITOR

~~10~~  
WITNESSES

Lexington County Sheriffs Department

Edward D. Prestigiacomio

Law Enforcement Case #: 09000860

DBM

ARREST WARRANT NUMBER

10-STR-00087

ACTION OF GRAND JURY

**TRUE BILL**

*Em Sheaw*  
Foreperson of Grand Jury

Date: 7/12/10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS3202105

**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS

JULY TERM 2010

THE STATE

vs.

Robert Allen Baker

CDR #: 2468

Indictment for

Committing or Attempting a Lewd Act  
Upon a Child

§ 16-15-0140

**DONALD V. MYERS, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Committing or Attempting a Lewd Act  
Upon a Child

§ 16-15-0140

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**A TRUE COPY**

*[Signature]*  
Lex. Co. C.C.C.P., G.S. & N.O.

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

*[Signature]*  
ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Edward D. Prestigiacomio

Law Enforcement Case #: 09000860

DBM

ARREST WARRANT NUMBER

10-STR-00088

ACTION OF GRAND JURY

**TRUE BILL**

*Ed M. Hew*  
Foreperson of Grand Jury

Date: 7/12/10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS3202108

**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS

JULY TERM 2010

THE STATE  
vs.

Robert Allen Baker

CDR #: 2468

Indictment for

Committing or Attempting a Lewd Act  
Upon a Child

§ 16-15-0140

**DONALD V. MYERS, SOLICITOR**