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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Spartanburg County
R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WAYNE COUEY, JR.,

APPELLANT

APPELLATE CASE NO 2017-000709

RECORD ON APPEAL

TAYLOR D GILLIAM
Appellate Defender

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
P. O. Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR APPELLANT

BARRY J. BARNETTE
Solicitor, Seventh Judicial Circuit
180 Magnolia Street, 3rd Floor
Spartanburg, South Carolina 29306
(864) 596-2575

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....	i
BENCH TRIAL TRANSCRIPT DATED MARCH 14, 2017.....	1
MOTION TO QUASH INDICTMENT.....	4
RULING BY THE COURT.....	5
MOTION TO SEQUESTER DEFENSE WITNESSES.....	6
TESTIMONY	
DEBRA BLANTON	
Direct Examination by Ms. Bozarth	7
Cross Examination by Mr. Neely.....	18
Redirect examination by Ms. Bozarth	23
STATE RESTS.....	24
MOTION FOR A DIRECTED VERDICT.....	24
RULING BY THE COURT.....	28
RENEWED MOTION TO QUASH INDICTMENT.....	29
RULING BY THE COURT.....	29
TESTIMONY	
WAYNE COUEY	
Direct examination by Mr. Neely	30
Cross Examination by Ms. Bozarth	37
Redirect examination by Ms. Neely.....	51
VIRGINIA ANN JOHNSON	
Direct examination by Mr. Neely	56
Cross Examination by Ms. Bozarth	57
Redirect examination by Ms. Neely.....	61
DEBRA BROWN	
Direct Examination by Ms. Bozarth	62
Cross Examination by Mr. Neely.....	63

RENEWED MOTION FOR A DIRECTED VERDICT	64
RULING BY THE COURT	68
VERDICT	68
SENTENCING	69
STATE'S EXHIBIT #1 (OFFENDER INFORMATION FORM).....	71
ARREST WARRANT	79
INDICTMENT	80
CERTIFICATE OF COUNSEL	82

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)

The State,)
) TRANSCRIPT OF RECORD
-vs-) 2016-GS-42-5351
)
Wayne Couey, Jr.,)
) March 14, 2017
) Spartanburg, South Carolina
Defendant.)

B E F O R E:

HONORABLE R. KEITH KELLY, JUDGE

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

BARRY J. BARNETTE, ESQUIRE
SARA B. BOZARTH, ESQUIRE
MEGAN L. MORICLE, ESQUIRE
Attorneys for the State

PAUL K. NEELY, ESQUIRE
Attorney for the Defendant

Margaret A. Woods
Circuit Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

PAGE

DEBRA BLANTON

Direct examination by Ms. Bozarth 7

Cross-examination by Mr. Neely 18

Redirect examination by Ms. Bozarth 23

WAYNE COUEY, JR.

Direct examination by Mr. Neely 30

Cross-examination by Ms. Bozarth 37

Redirect examination by Mr. Neely 51

VIRGINIA ANN JOHNSON

Direct examination by Mr. Neely 56

Cross-examination by Ms. Bozarth 57

Redirect examination by Mr. Neely 61

DEBRA BLANTON

Direct examination by Ms. Bozarth 62

Cross-examination by Mr. Neely 63

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	Sex offender registration form	4	14

MOTIONS AND MATTERS

1 (Sex offender registration form marked State's Exhibit
2 No. 1 for identification.)

3 THE COURT: Ready, Solicitor?

4 MS. BOZARTH: Uh, yes, Your Honor. The State calls the
5 State of South Carolina vs. Wayne Couey, Jr., I believe
6 defense has requested a bench trial.

7 THE COURT: Okay. Yes.

8 MR. NEELY: We we have, Judge, before we start I'm gonna
9 move to quash the indictment in this case.

10 THE COURT: Alright.

11 MR. NEELY: Uh, Your Honor the indictment alleges that on
12 or about, on or about January 30th of 2015 after having being
13 convicted of sexual assault in New Jersey the defendant did
14 fail to register annually as a sex offender with the
15 Spartanburg County sheriff's deputy, uh, Sheriff's Department
16 in Spartanburg, South Carolina. Your Honor, the written
17 notification that was provided to the defendant in which the
18 defendant signed and acknowledged states that he must register
19 quarterly because he's a tier 3 sex offender, uh, he must
20 register every 90 days and that he is required to register in
21 the month of January, uh, January 2015 would have been the
22 month that he was required to register, January, Your Honor,
23 has 31 days so the date that the warrant was issued, the date
24 that the indictment alleges that Mr. Couey committed a crime
25 no crime had occurred, he still had time to register as a sex

MOTIONS AND MATTERS

1 offender in the state so based on, so based on those grounds,
2 Your Honor, I think moving forward with the trial based on
3 this indictment would violate Mr. Couey's right to due
4 process, um, so based on those grounds we move to quash the
5 indictment.

6 THE COURT: Solicitor.

7 MS. BOZARTH: Your Honor, the defendant didn't register
8 in the month of January and didn't register after that, um,
9 yes, and he was served in, with the warrant in September of
10 2016.

11 MR. NEELY: Your Honor, that might be the case but what
12 the indictment alleges is that in January of 2015 Mr. Couey
13 committed a crime, based on what the State has given us notice
14 of, because as our Supreme Court has said an indictment is a
15 notice document, based on what we've been provided notice of,
16 uh, for trial a crime didn't occur so based on those grounds
17 we would move to quash the indictment.

18 THE COURT: Alright, but if he registered in the month of
19 January 2015, tell tell me that, did he register at all?

20 MS. BOZARTH: No. No, Your Honor.

21 THE COURT: Okay, it's a notice document, the Supreme
22 Court has said it's a notice document, document says "on or
23 about" and he didn't register so if he either registered on
24 the 31st day at 11:59 p.m., I'd grant the motion but otherwise
25 it's it's, uh, denied, ---

MOTIONS AND MATTERS

1 MS. BOZARTH: Thank, ---

2 THE COURT: --- okay.

3 MS. BOZARTH: --- Your Honor.

4 THE COURT: Anything else?

5 MS. BOZARTH: And the State moves to sequester the
6 witnesses.

7 THE COURT: Sequester witness ---

8 MS. BOZARTH: The defense witnesses.

9 MR. NEELY: Your Honor, I I object to that, there's only
10 three witnesses in this case: there's the defendant, there's
11 the State's witness and then there's Mr. Couey's witness. I
12 don't think any harm is or prejudice is done to the State by
13 sequesterin' in this case.

14 THE COURT: Quite honestly I do it in every case if
15 anybody asks on either side, I've never denied it so if, uh,
16 if Virginia Johnson would ple -- is sh -- ma'am, are you
17 Virginia Johnson?

18 THE WITNESS: Yes, sir.

19 THE COURT: Ma'am, if you would sit outside until after
20 you testify then you may remain, ---

21 MS. BOZARTH: Thank Your Honor.

22 THE COURT: --- that goes for the State too now if you
23 got other witnesses other ---

24 MS. BOZARTH: Just ---

25 THE COURT: --- than the officer.

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 MS. BOZARTH: --- our main witness officer.

2 THE COURT: Ms. Moricle needs to go out.

3 (Laughter.)

4 THE COURT: Ready?

5 MS. BOZARTH: Uh, yes, Your Honor. The State calls
6 Master Deputy Deb Blanton this ---

7 THE COURT: Alright.

8 MS. BOZARTH: --- time.

9 THE COURT: Officer, c'mon up be sworn.

10 THE WITNESS: Thank you.

11 (Whereupon, the witness came forward.)

12 THE CLERK: Place your left hand on the Bible, raise your
13 right.

14 DEBRA BLANTON, having been
15 first duly sworn testified as follows:

16 THE CLERK: Thank you.

17 THE COURT: Officer, tell us your name and spell your
18 last name for madam court reporter, please.

19 THE WITNESS: Debra Blanton, B-L-A-N-T-O-N.

20 THE COURT: Thank you. Solicitor.

21 DIRECT EXAMINATION BY MS. BOZARTH:

22 Q. Good afternoon. Um, so, Ms. Blanton, where do you work?

23 A. I'm, uh, with Spartanburg County Sheriff's Office, I'm
24 the sex offender registry coordinator.

25 Q. Okay, and that, is that your job title?

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 A. Yes, it is.

2 Q. Um, and what does that entail?

3 A. I am, um, I oversee the 648 registered sex offenders that
4 we have in Spartanburg County.

5 Q. And what are your responsibilities?

6 A. To, uh, ensure that they register, uh, in the months that
7 they are due, that they live where they say they live, work
8 where they say they work, drive what they say they drive, uh,
9 basically follow the, uh, state, federal guidelines.

10 Q. And do you know the defendant?

11 A. Yes, I do.

12 Q. How do you know the defendant?

13 A. Mr. Couey is a registered sex offender in Spartanburg
14 County in South Carolina.

15 Q. Is Mr. Couey in the courtroom?

16 A. Yes, he is.

17 Q. Um, and what do you do with sex offenders as far as
18 guidelines from the state?

19 A. Um, they, uh, come into our office, we have some that,
20 uh, come biannually, some that are quarterly, Mr. Couey's a
21 quarterly, uh, registered offender, uh, they come in, uh, we
22 go over, uh, their records to ensure that all the information
23 that we have, uh, is current and then we go over the rules and
24 regulations as stipulated in the contract.

25 Q. What contract?

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 A. There is a contract that they have to initial and sign
2 every time they come into our office.

3 Q. Um, permission to approach the witness what has -- with
4 what has been previously marked as State's Exhibit 1.

5 THE COURT: Yes, ma'am.

6 (Whereupon, defense counsel examined the exhibit.)

7 Q. Wait. Do you recognize this (indicating) document?

8 A. Yes, this is the, uh, Offender Information Form or as we
9 call it the "Contract Form."

10 Q. How do you recognize it?

11 A. Uh, well it has the, uh, at the very top it has the State
12 of South Carolina Sex Offender Registration Form, uh, it has
13 his picture, it has his basic information: his name, um,
14 driver's license information, SID number, FBI number, uh,
15 height, weight, um, where he lives, what his conviction was,
16 where he was convicted, the age of the child or, uh, victim,
17 um, ---

18 Q. Uh, does it include his address?

19 A. Yes, it does.

20 Q. Does it include his most recent address?

21 A. Uh, not at the current that's in our office at this time
22 that showed what his address was in 2014 ---

23 Q. Do you, ---

24 A. --- and at that time was [REDACTED]

25 Q. --- uh, do you have information as to his current

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 address?

2 A. Yes, but it would be on his most recent registration
3 which is not this.

4 Q. Okay. Um, and on that document, uh, in this
5 (indicating) -- well his most reci -- his most recent
6 registration where where else would his most recent, um,
7 address be?

8 A. Well it would be, uh, on our office files, it also, um,
9 if he, uh, changed his address with the DMV, it would be
10 indicated on the, uh, DMV records driver's license history, so
11 forth.

12 Q. Okay. What -- would you be notified if he changed his
13 address ---

14 A. If he changed ---

15 Q. --- from this address?

16 A. --- it outside of Spartanburg County to either another
17 county in this state or to another state, we re -- re --
18 receive notification from either that county or from that
19 state.

20 Q. Okay, I'll get back to that, thank you. Um, so, um, the
21 document, going page by page, um, you spoke about the contract
22 I believe you called it, um, what does that include?

23 A. Basically the contract tells him, um, indicates that if
24 he, um, does indeed move that he has three business days to,
25 uh, report that change of address to our office. If he

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 establishes a business, goes to school, volunteers somewhere,
2 drives somewhere, uh, any and all of that and it in --
3 indicates that he's aware of that because it has his initialed
4 here. Uh, if he moves to another county or another state
5 after changing the address with us he has three business days
6 to reregister in that county or state.

7 Q. Can you show me where he initialed.

8 A. Yes, these are his initials through here (indicating).
9 Um, let's see, written notification in person within three
10 business days of establishing a new residence, um, if he
11 changes his, uh, permanent or temporary address to a new
12 county, uh, that he has three business days in which to
13 register, uh, to a new jurisdiction with that county or to
14 another state.

15 Q. And when is that dated?

16 A. This is dated at the bottom, has the date of 10/23/14
17 which he, uh, put and when he signed the contract also on
18 10/23 which was autopopulated by the computer this
19 (indicating) is his signature and this (indicating) is my
20 signature as a witness underneath ---

21 Q. You ---

22 A. --- showing that he needed to be back in our office
23 January 2015.

24 Q. Were you aware that the defendant was leaving the state
25 for a short period of time?

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 A. Yes, I was.

2 Q. Um, were there requirements the defendant was supposed to
3 follow when moving outta state?

4 A. He indicated he was not moving out of state, that he was
5 going to New Jersey for family court issues, that, uh, he was
6 advised at that time if he was going to be there, uh, he
7 needed to find out from New Jersey if he needed to register
8 with New Jersey.

9 Q. And did he, um, did he send that 3-day letter or ---

10 A. He never indicated a change of address with us nor, uh,
11 did we receive any notification from New Jersey that he
12 registered there.

13 MS. BOZARTH: The State moves to submit what has been
14 previous marked as State's Exhibit 1 into evidence.

15 THE COURT: Any objection?

16 MR. NEELY: Hearsay, Your Honor.

17 THE COURT: Hearsay?

18 MR. BARNETTE: Hearsay.

19 THE COURT: Let's see about that.

20 (Whereupon, the exhibit was handed to the Court.)

21 MR. NEELY: Your Honor, it's all out-of-courtment, out
22 out-of-court statements being used to prove the m -- truth of
23 the matter what the State's asserting.

24 THE COURT: It's a government record.

25 MR. NEELY: Is it certified, Your Honor.

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 MR. BARNETTE: It's a business record.

2 (Whereupon, a discussion was held off the record.)

3 THE COURT: It is not certified. Is it maintained in the
4 courthouse?

5 (Whereupon, a discussion was held off the record.)

6 MR. BARNETTE: Your Honor, it's a business record.

7 MS. BOZARTH: It's a business record and I have to lay
8 the foundation but she does have the original.

9 MR. BARNETTE: She has the original.

10 THE COURT: She ha -- she has the original?

11 (Indiscernible cross-talk.)

12 THE WITNESS: Yes, sir, I do in my file.

13 MR. NEELY: But, Your Honor, it still has to be
14 certified.

15 MR. BARNETTE: No, it's sheriff's department record, ---

16 THE COURT: It's a business record, ---

17 MR. BARNETTE: --- business record.

18 THE COURT: --- 803(6).

19 MR. NEELY: Your Honor, I mean, the the purpose of that
20 is for this prosecution, that they maintain those records for
21 the purpose of prosecution should somebody fail to register so
22 I don't think it meets the business record exception.

23 THE COURT: It does. Well hang on a minute.

24 (Pause.)

25 THE COURT: A memorandum, report, record, or data

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 compilation, in any form, of acts, events, conditions, or
2 diagnosis, made at or near the time -- no, that's right --
3 yeah, that's a good one, if kept in the course of the
4 regularly conducted business activity, and if the regular
5 practice of that business activity is to make a memorandum,
6 record, report or data compilation and all as shown by the
7 testimony of the custodian or or other qualified witness, she
8 testified that she's the lady in charge. The term "business"
9 includes, uh, bi -- business, institution, association,
10 profession, occupation, and calling of every kind. Uh, it's
11 overruled, we'll allow it in under business record, I also
12 think it still comes in under self-authentication of bi -- of
13 a, uh, government record, uh,

14 MS. BOZARTH: Thank Your Honor.

15 (State's Exhibit No. 1, Sex offender registration form,
16 admitted into evidence.)

17 BY MS. BOZARTH:

18 Q. Uh, so to your knowledge has the defendant registered
19 New Jersey?

20 A. Not since 2008 when he changed his address from New
21 Jersey to South Carolina.

22 Q. Have you had contact with New Jersey to verify that?

23 A. I placed a phone call to verify that he had not
24 registered in two thousand, uh, since 2008 in New Jersey.

25 Q. And if he had registered would you have been notified?

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 A. Yes, I would have.

2 Q. Um, how ---

3 MR. NEELY: Objection, ---.

4 Q. --- long ---

5 MR. NEELY: --- it's hearsay, Your Honor.

6 THE COURT: Well that woulda been but it's in now, asked
7 and answered. Go ahead.

8 BY MS. BOZARTH:

9 Q. How long has the defendant been a registered sex
10 offender?

11 A. In the State of South Carolina since 2009.

12 Q. And how often is he supposed to register?

13 A. Quarterly.

14 Q. And how long has he been registering with your office?

15 A. Since 2009.

16 Q. Um, how long has it been since the defendant has last
17 registered with your office?

18 A. He came into our office in January of 2017..

19 Q. And how often does the defendant have to sign those
20 guidelines?

21 A. He comes in, every time he comes in to register, he has
22 to sign those guidelines.

23 Q. Okay. Beg the Court's indulgence:

24 THE COURT: Yes, ma'am.

25 (Pause.)

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 BY MS. BOZARTH:

2 Q. So in 2009 he would have had to go over those guidelines
3 four times, on the guidelines four times?

4 MR. NEELY: Objection, she's ---

5 Q. Um, ---

6 MR. NEELY: --- leading the witness.

7 Q. Sir, ---

8 THE COURT: Okay.

9 Q. --- fair? How many times since 2009 would he have gone
10 over those guidelines?

11 A. Four times a year, every year.

12 Q. How are you notified if he moved to another state?

13 MR. NEELY: Your Honor, this is asked and answered.

14 MS. BOZARTH: Uh, ---

15 THE COURT: Okay, just go ahead answer it.

16 THE WITNESS: If, uh, Mr. Couey was moving to New Jers --
17 New Jersey, he would change his address with our office and we
18 would notify SLED who in turn would notify New Jersey they
19 would be expecting him to move there. If he was moving from
20 New Jersey to South Carolina, uh, they would notify SLED and
21 in turn would notify our office and we'll receive a
22 notification to expect him to register in our state.

23 BY MS. BOZARTH:

24 Q And he missed hi -- did he miss, uh, his registration in
25 January 2015?

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 A. Yes, he did.

2 Q. And was a warrant issued?

3 A. Yes, it was.

4 Q. And then when was he arrested?

5 A. If I'm not mistaken he was arrested in 2016, um, I
6 believe it was September of 2016.

7 Q. And what's the purpose of sex offender registry?

8 A. To mainti -- maintai -- it's supposed to be a law
9 enforcement tool to maintain, uh, the records of those that
10 are sex offenders in, uh, whatever jurisdiction they're in so
11 the public would be notified, uh, it's a protection element,
12 it's also, uh, a law enforcement tool.

13 Q. Thank you. Beg the Court's indulgence.

14 (Pause.)

15 So he, did he register for a year?

16 A. The last time before we signed the warrant in 2015 when
17 he did not register in 2015 we did not see him again to
18 register in our office until a year and a half of later in
19 October of 2016, so he did not register in our office nor did
20 he register anywhere else for the year and a half.

21 Q. And is the defendant currently on probation?

22 A. Not that I'm aware of..

23 (Whereupon, a discussion was held off the record.)

24 Q. Was his probation re ---

25 MR. NEELY: Objection, Your Honor, this not relevant.

DEBRA BLANTON - CROSS-EXAMINATION BY MR. NEELY

1 THE COURT: What? Well I don't know what it is yet.

2 Q. Was he on probation when this offense occurred, ---

3 MR. NEELY: Same objection.

4 Q. --- was it revoked?

5 MR. NEELY: Same ---

6 THE COURT: Uh, ---

7 MR. NEELY: --- objection.

8 THE COURT: --- yeah, that's sustained, it's not
9 relevant.

10 MR. BARNETTE: Okay.

11 THE COURT: Oh, I I I overruled.

12 MS. BOZARTH: Oh. Nothing further, thank you.

13 (Whereupon, a discussion was held off the record.)

14 CROSS-EXAMINATION BY MR. NEELY:

15 Q. How long have you been in this position, Ms. Blanton?

16 A. In this position I've been, uh, seven, little over seven
17 years.

18 Q. So since 2010?

19 A. The end of 2009, beginning of 2002.

20 Q. Okay, so in 2009 when Mr. Couey moved from New Jersey to
21 South Carolina he had already been registered in Spartanburg
22 County when you started.

23 A. That's correct.

24 Q. Okay. Now you just testified that you oversee the
25 registration of 648 sex offenders in Spartanburg ---

DEBRA BLANTON - CROSS-EXAMINATION BY MR. NEELY

1 A. That's ---

2 Q. --- County ---

3 A. --- correct.

4 Q. --- and they all have to register bimonthly or
5 quarterly?

6 A. Yes.

7 Q. How many sex offenders do you see on a given day?

8 A. On a given day it depends whether it's the first of the
9 month or the end of the month, we average about a hundred and
10 fifty to a hundred and seventy-five a month.

11 Q. Okay. Now when they come in, people like Mr. Couey who
12 have been, uh, registering for years, this form you said it's
13 autopopulated.

14 A. The date.

15 Q. The date is autopopulated, the form is one that you print
16 out, it's the same one for each offender.

17 A. That's correct.

18 Q. Okay. Now with somebody like Mr. Couey who has been
19 doing this since 2009 in the State of South Carolina, you
20 testified that he's he's seen the form before, ---

21 A. That's correct, every time he comes in to register.

22 Q. --- right, so you don't read it to him.

23 A. No, we go over the rules and regulations, I do not read
24 it to him.

25 Q. You go over the rule and regulations but you don't read

DEBRA BLANTON - CROSS-EXAMINATION BY MR. NEELY

1 the form to him.

2 A. That's correct.

3 Q. Right. You've known Mr. Couey since 2010, have you
4 discussed his background with him?

5 A. His background?

6 Q. Yes, ma'am.

7 A. As in what specific?

8 Q. Have you discussed his education with him?

9 A. His education?

10 Q. Yes, ma'am.

11 A. We -- I have not.

12 Q. Have you discussed how far he went in school?

13 A. We ask if they can read and write English, yes, sir.

14 Q. And that's done at the first meeting.

15 A. Well that's in, that's in the system. There's a block
16 that it is marked whether they can read and write and speak
17 English and if it's marked that question has been asked, I
18 don't ask it again; ---

19 Q. So ---

20 A. --- that's ---

21 Q. --- you ---

22 A. --- correct.

23 Q. --- never asked Mr. Couey if he can read.

24 A. No, sir.

25 Q. Okay. And you didn't read these guidelines ---

DEBRA BLANTON - CROSS-EXAMINATION BY MR. NEELY

1 A. No, sir, I went over ---

2 Q. --- to ---

3 A. --- them.

4 Q. --- Mr. Couey. This is what's al -- this is my copy of
5 what's already in evidence, will you read this (indicating)
6 line to the Court.

7 A. Provide written notification in person within three
8 business days of change of address to a new jurisdiction to
9 the county sheriff with whom the person last registered.

10 Q. New jurisdiction. Did you ever explain what the word
11 "jurisdiction" meant to Mr. Couey?

12 A. Not specifically, no.

13 Q. So you never explained what the word "jurisdiction" meant
14 to Mr. Couey.

15 A. I explained that if he left Spartanburg County to move to
16 another area outside of Spartanburg County he would have to
17 register within that county, he would have to notify me and
18 then register there within three business days.

19 Q. So what you told him was that he would have to notify you
20 and he would have to register in the new county.

21 A. That's correct.

22 Q. Okay. Uh, you testified that you were aware that
23 Mr. Couey was going to New Jersey, ---

24 A. That's correct.

25 Q. --- when did you become aware of that?

DEBRA BLANTON - CROSS-EXAMINATION BY MR. NEELY

1 A. Uh, when he came in and registered he said there was a
2 possibility that he was going to New Jersey for family
3 court.

4 Q. Did he give you a length of time for how long that's
5 gonna last?

6 A. No, sir, ---

7 Q. But you told him ---

8 A. --- but I advised him that if he was going to be there
9 that he need to find out from New Jersey if he needed to check
10 in and register with them, that's their, that's their
11 responsibility.

12 Q. That's New Jersey's responsibility.

13 A. No, that's ---

14 Q. That's ---

15 A. --- offender's ---

16 Q. --- the offender's ---

17 A. --- responsibility ---

18 Q. --- responsibility ---

19 A. --- to find out if he needed to register in New Jersey.

20 Q. Right. And you don't know if he found out or not whether
21 he was required ---

22 A. No, sir, ---

23 Q. --- to register?

24 A. --- I do not.

25 THE DEFENDANT: You don't have ---

DEBRA BLANTON - REDIRECT EXAMINATION BY MS. BOZARTH

1 Q. You don't have any documentation that he never registered
2 in New Jersey, do you?

3 A. There is no documentation 'cause he never registered,
4 that's correct.

5 Q. So you don't have any documentation that he did or
6 didn't.

7 A. If he had registered in New Jersey, yes, sir, I would
8 have been notified that he was registered in New Jersey, he
9 never registered, therefore I have no documents.

10 Q. You called New Jersey?

11 A. Yes, I did.

12 Q. And they never sent you a letter followin' up on that
13 conversation?

14 A. The conversation we had is that the last, uh, te -- uh,
15 contact with Mr. Couey was in 2008 when he notified New Jersey
16 he was changing his address to South Carolina.

17 Q. That was all done by phone?

18 A. Yes, sir, it was.

19 Q. So nothing in writing.

20 A. That's correct.

21 MR. NEELY: Uh, thank you, Judge Kelly.

22 THE COURT: Anything at all?

23 REDIRECT EXAMINATION BY MS. BOZARTH:

24 Q. You called New Jersey and there's no record of his
25 registration?

DEBRA BLANTON - REDIRECT EXAMINATION BY MS. BOZARTH

1 A. That's correct.

2 Q. Thank you.

3 THE COURT: Thank you. Ma'am, you may step down, please
4 be ---.

5 THE WITNESS: Thank you, ---

6 THE COURT: --- careful.

7 THE WITNESS: --- folks.

8 (Whereupon, the witness left the stand.)

9 (Whereupon, a discussion was held off the record.)

10 THE COURT: Solicitor.

11 MS. BOZARTH: We rest.

12 THE COURT: State rests..

13 MR. NEELY: Move for directed verdict, Your Honor. Um,
14 'cause what the officer testified to just now was that she has
15 never asked Mr. Couey whether he can read, whether he can
16 write, she's never gone over his educational background with
17 him. What she said was that when he, Mr. Couey told, uh, her
18 that when he was going to New Jersey that he would have to
19 notify them and that he would have to check and see if he had
20 to register in the new county. Your Honor, the, what the
21 document that is in evidence says is that and what Ms. Blanton
22 read to the Court was that it says that, uh, he has, that it's
23 his obligation provide written notification in person within
24 three business days a change of address to a new jurisdiction,
25 she testified that she never explained what the word

MOTIONS AND MATTERS

1 "jurisdiction" meant to Mr. Couey. Your Honor, there is a
2 case, uh, *State v. Latimore* and I'll be happy to pass it up.
3 Here, let me give ya the site, it's 390 S.C. 88.

4 THE COURT: 390 S.C. ---

5 MR. NEELY: Yes, sir, 88.

6 THE COURT: Okay.

7 MR. NEELY: Your Honor, and and what that case stands for
8 is that a defendant, a person required to register on the sex
9 offender registry is entitled to reasonable notice, uh, before
10 he can be violated for failure to register. Your Honor, I
11 would argue right now the testimony that's been provided by
12 the State, uh, would not rise to that reasonable notice
13 statute and based on that we would move for a directed
14 verdict.

15 THE COURT: Solicitor.

16 MS. BOZARTH: He registered four times a year, um, when
17 he was checking in, he initialed the requirements and went
18 over what those requirements were. She made it very clear
19 that if he moved to New Jersey he would have to change his
20 address and maybe jurisdiction, didn't use that word
21 specifically but did specifically tell him if he moves out of
22 Spartanburg he must register in the new county and he didn't
23 and he didn't register anywhere else either for a year and he
24 knows he's supposed to register four times a year.

25 THE COURT: Alright, anything further? He -- yes.

MOTIONS AND MATTERS

1 MR. NEELY: Your Honor, at at this time we we would also
2 move, uh, on on a Constitutional ground that the State of
3 South Carolina has no personal jurisdiction to attach its laws
4 to a resident of New Jersey. Your Honor, 23-3-430 says that
5 any person regardless of age residing in the State of South
6 Carolina, um, who's been convicted of or of a sex offender is
7 required to -- of a sex offense is required to register in the
8 state. Your Honor, there is statute further in that article
9 that defines what a resident of South Carolina is for purposes
10 of that statute and it says that a resident of South Carolina
11 is anybody who resides in the state for 30 days in a 12-month
12 period, well, Your Honor, if he's livin' in New Jersey as she,
13 as Ms. Blanton testified, from January of 2015 until August of
14 2016 nonstop, that 30 days in a 12-month period that the
15 statute prescribes for a resident of South Carolina doesn't
16 apply to Mr. Couey and if it doesn't apply to Mr. Couey then
17 23-3-430 doesn't apply to Mr. Couey which would mean that
18 23-3-460(f) which is the written notice requirement wouldn't
19 apply to him as well. Officer Blanton testified that
20 Mr. Couey was in New Jersey from January 2015 until August of
21 2016, that's the State's evidence, Your Honor, and if that's
22 the case, he's not a resident of South Carolina and that's
23 based on the State's testimony so we would move for directed
24 verdict on those grounds as well.

25 THE COURT: Solicitor.

MOTIONS AND MATTERS

1 MS. MORICLE: Your Honor, may I, can I see that case law,
2 please, since you didn't bring us a copy.

3 (Pause.)

4 MS. BOZARTH: Well if he did move to New Jersey, he knew
5 that he had to register somewhere as a sex offender and he
6 didn't register ---

7 MR. BARNETTE: May we, ---

8 MS. BOZARTH: --- anywhere.

9 MR. BARNETTE: --- may we approach the bench?

10 THE COURT: Sure.

11 (Whereupon, a bench conference was held off record.)

12 MS. BOZARTH: Thank you.

13 THE COURT: Anything further?

14 MS. BOZARTH: He did not register as a sex offender for a
15 year ---

16 THE COURT: Thank you.

17 MS. BOZARTH: --- anywhere.

18 MR. NEELY: Your Honor, just just just one final point.
19 What what what's not at issue here today is whether or not
20 Mr. Couey registered in New Jersey. Uh, the Adam Walsh Child
21 Protection Safety Act of 2006 the federal law from which all
22 states promulgated their state laws after that, uh, cr --
23 based on that federal law, New Jersey created whatever sex
24 offender registry laws they have. Now whether Mr. Houey [sic]
25 broke New Jersey statute is for New Jersey to decide, for New

MOTIONS AND MATTERS

1 Jersey to prosecute,, it's not South Carolina's business to
2 reach into the state of New Jersey, we don't have personal
3 juris -- this court does not have personal jurisdiction over
4 Mr. Couey to prosecute him on that whether not he registered
5 in New Jersey, h9e wasn't a resident of South Carolina,
6 23-3-430 makes very clear that for that article to apply to
7 him he has to be a resident and based on what that article
8 defines a resident as, Mr. Couey was not a resident. Thank
9 you, Judge.

10 THE COURT: Alright. Okay, uh, the motion is is, uh,
11 denied, uh, Mr. Couey was a resident of State of South
12 Carolina the time that, uh, he committed the offense. We're
13 not here trying him on whether or not he registered in the
14 state a New Jersey or any other state whatsoever but the
15 legislature, uh, in its, uh, in his wisdom passed and it looks
16 to me like it was last modified in 2010, ---

17 MR. NEELY: Yes, sir.

18 THE COURT: --- it was last modified in 2010 is the way I
19 just looked at it on the, uh, uh, computer there so, uh, that
20 code section was plain and unambiguous and it gave each and
21 every citizen of this state notice of what is and is not
22 required and subsection (f) required him to register, he was a
23 resident at that time, he's required to register quarterly, it
24 also says that he's supposed to notify within three business
25 days in writing, uh, if he has relocated. Now, I understand

MOTIONS AND MATTERS

1 that he, uh, he left, uh, whether or not he had permission or
2 not I didn't allow that in as far as his probation revocation,
3 that's not before this court, but what is before the Court is
4 he did not register quarterly, he did not register in January
5 all the way up until 11:59 p.m. of January 31 as you so aptly
6 pointed out, uh, he had time to do that but he did not nor did
7 he register any time after that so motion is denied, a course
8 this court at this point is not weighing the evidence, this
9 court is merely concerned with whether or not there is any
10 existence of any evidence and there's the existence at this
11 point of evidence that he did not comply with the statute and
12 that he was a resident this state at that time. Yes.

13 MR. NEELY: And, Your Honor, for the purposes of
14 protecting the record, ---

15 THE COURT: Sure.

16 MR. NEELY: --- I renew my motion from the start a trial
17 to quash the indictment.

18 THE COURT: Absolutely, you're protected. Anything else?
19 Alright.

20 MR. BOZARTH: And we we would request deny motion.

21 THE COURT: Yes, it's denied. Mr. Neely, anything?

22 MR. NEELY: Uh, yes, Your Honor, we call Wayne Couey to
23 the stand.

24 THE COURT: Alright, c'mon up, sir.

25 (Whereupon, the defendant came forward.)

WAYNE COUEY - DIRECT EXAMINATION BY MR. NEELY

1 THE CLERK: Place your left hand on the Bible, raise your
2 right.

3 WAYNE COUEY, having been
4 first duly sworn, testified as follows:

5 THE CLERK: Thank you.

6 THE COURT: Sir, tell us your full name and spell your
7 last name, please.

8 THE DEFENDANT: Wayne Couey, C-O-U-E-Y.

9 THE COURT: Yes, sir, Mr. Neely.

10 MR. NEELY: Thank you, Judge.

11 DIRECT EXAMINATION BY MR. NEELY:

12 Q. Wayne, how old are you?

13 A. Thirty-seven.

14 Q. Where you from?

15 A. Born and raised in New Jersey, ---

16 Q. Okay.

17 A. --- Paterson, New Jersey.

18 Q. Where's Paterson? What's that near?

19 A. Paterson, New Jersey is near near Garfield, about
20 forty-five minutes from New York.

21 Q. How long were you there?

22 A. I've been living there all my life. I came down here in,
23 came home '07, I got down here in '07. I've been down here
24 for a weddin', left, came back then I moved down here. I
25 never know I have to register down here that why in New Jersey

WAYNE COUEY - DIRECT EXAMINATION BY MR. NEELY

1 when I caught my charge it was on my baby mama. I was young,
2 she was young, I aint know how old she was at the time, when I
3 turned 18 her fathers pressed charges against me. I had a
4 lawsuit 'gainst the State 'cause she was pregnant. She lied
5 'bout age and prosecutor knew ---

6 UNIDENTIFIED WOMAN: Knew nothing ---

7 A. --- now he came with me with a deal, told me if I don't
8 sue the state then will let me go. I signed the paperwork, I
9 won't sue the state then like two months later I had my
10 daughter and come back to court, gave me probation, two years
11 probation, two year of Megan Law and I did my Megan Law,
12 everything up there and I was not on Megan Law or nothin' when
13 I did left State a New Jersey.

14 Q. What brought to you South Carolina like ---

15 A. What brought me to South Carolina? I was sick and tired
16 a goin' back and forth to jail and I wanna be out there for my
17 kids. I have four kids at the time, matter a fact, I have
18 five at the time, know what I mean, I -- and plus my ol -- um,
19 my younger brother was gettin' married and I came down here
20 for the weddin', know what I mean, and they'll talk me into
21 stayin' down here.

22 Q. Okay. Let's back up to when you were livin' in New
23 Jersey, okay?

24 A. Yes, sir.

25 Q. Where'd you go to high school at?

WAYNE COUEY - DIRECT EXAMINATION BY MR. NEELY

1 A. Passaic High.

2 Q. How far'd you go?

3 A. I went, I really went tenth grade, that why I had a
4 problem, I got problem right now, still got a problem readin'
5 and writing. I can't spell and I can't really read at the, I
6 can read little little little words I can read ---

7 Q. And wha ---

8 A. --- and ---

9 Q. --- what kinda, what kinda classes were you takin' when
10 you're in school?

11 A. Um, a special eds classes.

12 Q. Special ed classes? Have ---

13 A. Yes.

14 Q. --- you been diagnosed with a learnin' disability?

15 A. Yes, I did.

16 Q. Wha'd wha'd they diagnose you with?

17 A. Um, I won't comprehend, the deal is I can't comprehend,
18 I can't sit down in my seat and I won't listen to what goin'
19 on.

20 Q. Um-hum.

21 A. I can't pay, know what I mean, I can't pay attention what
22 goin' on what you tell me, I only has other stuff on my mind.

23 Q. Okay. What about readin'?

24 A. Readin', I can't really read that good and spell.

25 Q. That right there (indicating) next to your initials, will

WAYNE COUEY - DIRECT EXAMINATION BY MR. NEELY

1 you read that to the Court, please.

2 A. Uh, tell you the truth I don't really, uh, know what it
3 say. Um, I try, I I really don't know what it say.

4 Q. You've seen this document before though?

5 A. Yes, I did and I just take the paper, when she tell me
6 put put my initial on it and that's it, I gotta do what I
7 gotta do. I put my initial on it and sign it and then that's
8 it.

9 Q. You've been in South Carolina registerin' as a sex
10 offender since 2009.

11 A. 2008.

12 Q. Since 2008, excuse me.

13 A. Yeah, not 2009, 2008. I've ---

14 Q. Has ---

15 A. --- been down here, 2007 I came down.

16 Q. --- has anybody ever read that sheet of paper to you?

17 A. No. When I had to, um, my first, the first officer I had
18 down here it was a man ---

19 Q. Um-hum.

20 A. --- and, uh, switched me to Ms. Blanton and she's through
21 that know me and she no -- I was down here and she notified,
22 did all that before and I just did, you know, I mean, did, you
23 know, put my initial on.

24 Q. Why'd you go back to New Jersey?

25 A. Why I went back to New Jersey, what, 2015?

WAYNE COUEY - DIRECT EXAMINATION BY MR. NEELY

1 Q. In t -- in 2015 why'd you go back to New Jersey?

2 A. There was talk take my rights from my kids, my kids was
3 in DSS. My, um, my two younger daughter was in DSS, you know,
4 will try to take my rights and I would fight for my rights for
5 like four or five years and woulda been in DSS custody about
6 four or five years and I was goin' back and forth the four or
7 five years and when I did call Ms. Blanton in 2015 in January
8 to tell her I still gotta go to court, she said she don't
9 wanna hear it, I put a outstandin' warrant on you and that's
10 it and hung up on me and that what she did and I call back,
11 she said to turn yourself in in the county, I said, Hold on,
12 let me, let me tell you, know what I mean, she aint wanna hear
13 nuttin', she hung up twice on me and ---

14 Q. So you -- sorry, Wayne, I didn't mean to interrupt but so
15 you called Ms. Blanton to tell her that you were movin' to New
16 Jersey?

17 A. I would call her tell her I wanna stay up there for a
18 little more longer, I wanted come down to register, you know
19 what I mean, if I wa -- if I wanna lose my rights on my
20 kid ---

21 Q. Um-hum.

22 A. --- knowin' that's the only thing I got, my kids. I got
23 five kids out there and that's all I got, five kids and that's
24 all, only I got out there, know what I mean, what's mine and
25 aint gonna let my kids in no DSS custody in in a foster home,

WAYNE COUEY - DIRECT EXAMINATION BY MR. NEELY

1 know what I mean, with nobody else.

2 Q. Well when you told officer Blanton that you were goin' to
3 New Jersey, what did she tell ya?

4 A. She told me okay ---

5 Q. She get, ---

6 A. --- on that.

7 Q. --- she give you any other instructions?

8 A. No, she didn't. See, in New Jersey aint no, aint no
9 Megan Law up there, I did my time. I did my time up there and
10 aint no Megan Law up in New Jersey, know I mean, why I gotta
11 check in and aint doin' it, know I mean, that right they're
12 gonna look at me 'bout it's know I'm about face the sun, know
13 I mean, and Ms. Blanton know when I told her. I called her
14 January I think was on the 20 suntin', I gotta, I had like two
15 more weeks in in that January 2015 to make it down here and
16 register. When I call her she said she put a outstandin'
17 warrant out for my arrest, for what, she aint wanna tell me
18 for what, she know, know why she know I had a warrant out for
19 some drivin' tickets and she know, know I mean, put that
20 outstandin' warrant out like she did it before when I were
21 locked up when I had my kids down here in two thousand, let's
22 see, when that was, 2013, 2012, matter a fact, I had my kids
23 down here like and I got locked up, know what I mean, and she
24 put a warrant out for my arrest 'cause she aint check the
25 computer see where I was at, know what I mean, and have to

WAYNE COUEY. - DIRECT EXAMINATION BY MR. NEELY

1 make bail then on that one too on 2013, 212 when my kids were
2 down here with me for the summertime.

3 Q. So you, let let me go back to January 2015, you moved up
4 there to to fight court battle for your kids, ---

5 A. Yes, aint aint move ---

6 Q. --- how ---

7 A. --- there, I went up there to go to court.

8 Q. You weren't plannin' on stayin' up there ---

9 A. No, I wasn't, sir.

10 Q. --- but you ended up stayin' up there.

11 A. Yes, I did. I was goin' back and forth court and if I
12 went to jail down here I would lost my rights of my kid.

13 Q. You ever have a permanent residence in New Jersey?

14 A. I was stayin' with my brother and my, and my stepfather,
15 well back and forth, know what I mean. I really, I was really
16 stayin' with my brother, know I mean, see, my, obviously my
17 stepfather me and him get a long, we really don't get along
18 like that.

19 Q. Were you ever aware that you had provide written
20 notice?

21 A. No, I didn't, sir, she never told me 'bout none a that.

22 Q. Is there anything else you want the judge to know?

23 A. And I just, know what I mean, not sayin' I never did no
24 wrong, know what I mean, I know I messed up bad, I supposed to
25 came down in January and I have to fight, I fight for my, know

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 what I mean, my rights and the only way I can see if I can do
2 that if I stay up there, finish going' to court.

3 Q. Since you've been back in South Carolina you've
4 registered twice?

5 A. Yes, I did.

6 Q. Okay. Alright, Ms. Bozarth is gonna ask you some
7 questions, okay?

8 A. Okay.

9 THE COURT: Solicitor.

10 MS. BOZARTH: Thank you.

11 CROSS-EXAMINATION BY MS. BOZARTH:

12 Q. Good afternoon, so you first became a registered sex
13 offender in 1999.

14 A. Yes, ma'am.

15 Q. Where?

16 A. In New Jersey.

17 Q. Did you register there?

18 A. Yes, I did.

19 Q. How'd you know to register there?

20 A. How I know where? in in New Jersey when I was up there?

21 Q. How did you know to register ---

22 A. I ---

23 Q. --- there?

24 A. --- I was livin' New Jersey ---

25 Q. How ---

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 A. --- and had ---

2 Q. --- did you ---

3 A. --- to ---

4 Q. --- know that you had to register there?

5 A. I left to go every every three months, six months up
6 there to register.

7 Q. How do you know that?

8 A. How?

9 Q. How do you know you're required to do that?

10 A. Have them tell me, you know, know what I mean, I had the
11 piece a paper ---

12 Q. Do you ---

13 A. --- just come back.

14 Q. --- sign something?

15 A. I never sign no paperwork back there ---

16 Q. By ---

17 A. --- so what ---

18 Q. --- New Jersey?

19 A. Yeah, not no initials, you know, not like that, no, no, I
20 didn't, ma'am.

21 Q. What happened when you checked in in New Jersey? What
22 did ---

23 A. Check in ---

24 Q. --- you do?

25 A. --- New Jersey?

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 Q. How do you do that?

2 A. How I gonna check in New Jersey, aint aint on nothin' in
3 New Jersey, ---

4 Q. Um, ---

5 A. --- how you gonna check in on somethin' aint on nuttin'
6 in New ---

7 Q. When you were ---

8 A. --- Jer ---

9 Q. --- there.

10 A. When I was there, I was goin' down there to the, um, to
11 the, uh, police station up there, Paterson, New Jersey Police
12 Station.

13 Q. Did that require you signing something?

14 A. Sign it? I never sign nuttin', I go in and that's it and
15 leave. I never sign no piece a paper up there, nothin'.

16 Q. Okay, so you knew to register here.

17 A. I knew register here 'cause she give me the piece of
18 paper and tell me be back every ninety days.

19 Q. Who?

20 A. Ms. Blanton and that's why ---

21 Q. So she told you to come back ---

22 A. She told me to come ---

23 Q. --- every ---

24 A. --- back.

25 Q. --- ninety days, ---

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

- 1 A. She told ---
- 2 Q. --- that's what you just said.
- 3 A. She tell me to come back in every ninety days.
- 4 Q. Right, so you understood that and you did that.
- 5 A. I understood that and sometime when I can't make it I
- 6 call her and come back, they allow me to go down there and ---
- 7 Q. Because you know you need to check in.
- 8 A. Yeah, I know, yeah.
- 9 Q. Yeah.
- 10 A. Yeah, I know I need to check in, yeah.
- 11 Q. Yeah, ---
- 12 A. Yeah, ---
- 13 Q. --- so you ---
- 14 A. --- I know that.
- 15 Q. --- came in two times a year first and then the la
- 16 --right?
- 17 A. Two time what year you talkin' about?
- 18 Q. Two times a year, um, when you came down in 2009.
- 19 A. I never came down here in 2009, ---
- 20 Q. Two thousand se ---
- 21 A. --- I came down in two thousand 07.
- 22 Q. Sorry, thank you.
- 23 A. You're welcome.
- 24 Q. You first registered here when?
- 25 A. 2008 when they locked me up. When I did move down here,

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 they locked me up when I was tryin' to get a ID, ---

2 Q. Okay.

3 A. --- that, you know what I mean, them locked me up and
4 that made bail, came to court and we say they aint gonna be my
5 first, they aint nothin' known 'cause I aint know I had to
6 register down here, I I know I was not on notice, do you
7 understand that? I was not on nothin' when I left New Jersey,
8 I did two years. I caught my ch -- caught my charge in '98,
9 '98 went to jail for six months, came home in '99, I had my
10 daughter in '99, come home back to court '99, gave me
11 probation, two years probation, two years Mega [sic] Law. I
12 did my two years probation, my two years Mega Law up there.

13 Q. Were you checking in during those times?

14 A. I check in once a year up there, that what it was up
15 there, once a year at the time when I was on it, once a year.

16 Q. And then you checked in down here two thousand, you say
17 you moved down here 2008, you first ---

18 A. No, ---

19 Q. --- checked in two thou ---

20 A. --- two thousand 07, ---

21 Q. 2007, I'm sorry, thank you ---

22 A. --- 'member? 'member?

23 Q. --- that.

24 A. Two thou ---

25 Q. I'll write it down now.

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 A. Yeah.

2 Q. Thank you.

3 A. Yeah, 'bout two thousand 08, two thousand 09 I ---

4 Q. Well, ---

5 A. --- moved down here ---

6 Q. --- so when did you first register down here?

7 A. In two thousand 08.

8 Q. Okay, and so then the law changed in 2010 so then you
9 started coming in around four times a year.

10 A. Four time a year, um, I was on every on -- yeah, four
11 time a year.

12 Q. How'd you know how to do that?

13 A. How? I had a piece a paper remind me. I look at it, Oh,
14 I gotta go.

15 Q. What piece a paper?

16 A. The, um, the piece a paper, um, ya'll were holding in
17 your hand.

18 Q. So you could read that to remind you?

19 A. Who? I can read the date, I can not go -- now on the
20 date aint no problem for me ---

21 Q. Okay, and you're ---

22 A. --- but readin' ---

23 Q. --- provided with, ---

24 A. --- words, it's hard for me.

25 Q. --- Debbie Blanton re -- re -- ha, provided you with when

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 you needed to check in.

2 A. When she tell me check in every three months, I know I
3 gotta check in every ---

4 Q. Um-hum, ---

5 A. --- month ---

6 Q. --- yes.

7 A. --- and I sit back, see, okay, I went this month,
8 I got well in ninety days to go in and after ninety days I can
9 pick any day she told me to come in long I do not pick at the
10 end a the month.

11 Q. And as long as you come in.

12 A. Yeah, long as I come in ---

13 Q. Um-hum.

14 A. --- and I, and I come in probly probly in the middle a
15 the month, probly close at the end a the month, ---

16 Q. And she ---

17 A. --- all that.

18 Q. --- would tell you when to come in, she would re -- you
19 have these reminders.

20 A. I got the reminder, know what mean, nuttin', know what
21 mean, don't got nuttin' do can I read or not, you know I mean,
22 I can' read. If somebody -- alright, you can tell me, Oh, I
23 got appointment such such, okay, I'll listen what you're
24 sayin', whether I remember from time period to now, know I
25 mean, if I don't go no written down, I won't, I won't remember

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 nuttin'. I got it written down, I look at it and I sit there
2 ask my lady, whoever, know, my fiancé ---

3 Q. You write it down?

4 A. Huh?

5 Q. You write ---

6 A. (Indiscernible cross-talk.) No write it down. How I'm
7 gonna write suntin' down and I can't spell?

8 Q. I don't know, I thought that's what you just said.

9 A. No, I didn't s -- no, I didn't, ma'am, you gotta listen,
10 you gotta listen what I say. I I I said you write suntin'
11 down for me and I know I gotta come back in couple months
12 later ---

13 Q. Okay, ---

14 A. --- and I'll come ---

15 Q. --- fair.

16 A. --- back a couple months later.

17 Q. Okay, but you knew to come back, you knew that you were
18 had to check in South Carolina.

19 A. Yes, I did and I call her January 20 suntin' before
20 January ran out and she told me, I put a outstandin' warrant
21 on you, I don't wanna hear it, click, and I called back, she
22 said, You turn yourself in the county, I say, Hold on, let me
23 talk to you, she hung up again.

24 Q. This is before you went to New Jersey ---

25 A. N ---

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 Q. --- or ---

2 A. To visit, I was in New Jersey.

3 Q. Okay. And did you have permission to go to New Jersey?

4 A. Yes, I did, ma'am.

5 Q. Okay. And did they give you a length of time where
6 you ---

7 A. No limit.

8 Q. --- could spendin' -- no ---

9 A. No ---

10 Q. --- limit?

11 A. I knowed on that. No limit. I I told I was goin' to
12 court.

13 Q. Even when you signed a paper and you had reminders to
14 come in and check in South Carolina court January, that was a
15 reminder, ---

16 A. In January, ---

17 Q. --- you had those?

18 A. --- in January come to court?

19 Q. Um-hum.

20 A. Yeah, I gots, I got all my paper in ---

21 Q. Yeah.

22 A. --- in there. All my lawyers ---

23 Q. Um-hum, ---

24 A. --- now but my lawyers ---

25 Q. --- so you knew ---

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

- 1 A. --- New Jersey sent my ---
- 2 Q. Okay, ---
- 3 A. --- paperwork and then ---
- 4 Q. --- yeah.
- 5 A. Now I missed two court dates up there 'cause why I
- 6 couldn't make it.
- 7 Q. Up there ---
- 8 A. Yeah, yeah.
- 9 Q. --- being ---
- 10 A. Yeah.
- 11 Q. --- New Jersey ---
- 12 A. Bein' what? Break it down, what?
- 13 Q. What ---
- 14 A. (Indiscernible cross-talk.)
- 15 Q. --- do you mean you missed two court dates?
- 16 A. I missed two court date go for my kids up there New
- 17 Jersey.
- 18 Q. N -- okay, so you missed two court dates ---
- 19 A. Yeah, that one right there was ---
- 20 Q. --- in ---
- 21 A. --- was ---
- 22 Q. --- South Carolina.
- 23 A. No, and I aint say nowhere South Carolina, don't put
- 24 nuttin' in my, um, please don't put nuttin' in my mouth. I
- 25 aint say ---

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 Q. I don't ---

2 A. --- nowhere in ---

3 Q. --- wanna put anything ---

4 A. --- South Carolina.

5 Q. --- in your mouth, I am tryin' to ---

6 A. No, ---

7 Q. --- understand what's goin' on.

8 A. --- I got a speech problem, I got a speech problem and I
9 see you try to pit sumtin' in my mouth I never say 'bout South
10 Carolina:

11 Q. No, go ahead.

12 A. I say I miss two court date in New Jersey, ---

13 Q. Okay.

14 A. --- that was in two thousand and fourteen I missed two
15 court dates up in New Jersey, go to court for my kid, I
16 couldn't make it and aint aint have no money and I couldn't
17 get up there at the time, you know I mean. I call my lawyer,
18 told her can reschedule it, he aint -- he rescheduled it for
19 2015 January on the 15th.

20 Q. Okay, so you went back up to New Jersey, um, and when you
21 lived in New Jersey you knew to register so now you're back in
22 New Jersey, um, so you know to register there, you've been
23 there, you lived there.

24 A. Alright, listen, I'm 'bout to tell you one more time, I
25 was not on Megan Law up in New Jersey. I did my time on for

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 '98, m -- matter a fact, when I caught the charge in '98, came
2 home '99, I did my time up there.

3 Q. You lived in New Jersey, you're a registered sex
4 offender ---

5 MR. NEELY: Judge, objection.

6 Q. --- up there ---

7 THE COURT: Wait a minute. Wait a minute.

8 MR. BARNETTE: May we approach ---

9 THE COURT: Yes, ---

10 MR. BARNETTE: --- the Court?

11 THE COURT: --- come up.

12 THE DEFENDANT: You go ahead, can't twist me up, can't
13 twist my head up.

14 MR. NEELY: Hey, Wayne, stop talkin'.

15 (Whereupon, a bench conference was held off the record.)

16 MS. BOZARTH: Thank you.

17 BY MS. BOZARTH:

18 Q. Have you ever had a license?

19 A. No, sir -- no, ma'am, never did, never did my whole life.
20 I still aint got no license.

21 Q. Where do you live now?

22 A. Live Spart, uh, Spartanburg, South Carolina. Live 305
23 Apartment A, Powell Mill (phonetic) Road.

24 Q. When's the last time you change your address?

25 A. Last time I change my address when I came back down here,

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 ma'am, that was, ---

2 Q. From ---

3 A. --- that was the end a last year, ma'am, when my mom got
4 sick, caught a stroke and my sister done need my help, that
5 why I came back down. Ma'am, I would not plan come back down,
6 that why I I will fight for my kids, I cannot lose none a my
7 kids. I got five kids, my older daughter 'bout to be 18 and
8 my two younger ones up in DSS custody in a foster home, goin'
9 homes after home, 'kay, terrible one, know what I mean, and
10 that aint nuttin' happenin', know I mean, that why I have to
11 fight for my kids, that's what I did. I went up there to
12 fight for my kids and I told Ms. Blanton I gotta go up to
13 court for my kids.

14 Q. And she told you that you have to come register in
15 January and you didn't.

16 A. And I didn't though I called her in January and she say
17 she put a outstanding ---

18 Q. Um-hum, ---

19 A. --- warrant ---

20 (Indiscernible cross-talk.)

21 Q. --- because you didn't come register so no further ---

22 A. I had, ---

23 Q. --- questions.

24 A. --- I had couple more mo, um, couple more days, 'bout two
25 more weeks in January to register.

WAYNE COUEY - CROSS-EXAMINATION BY MS. BOZARTH

1 Q. Do you have an ID card?

2 A. Not on me.

3 Q. But you have one?

4 A. Yeah.

5 Q. What's your address on that?

6 MR. NEELY: Your Honor, I ---

7 A. It 305 on ---

8 MR. NEELY: --- I'm gonna ---

9 A. --- that one.

10 MR. NEELY: --- object to this line of questioning, I
11 don't, I don't think it's relevant to what we're doin' here.
12 There ---

13 THE COURT: Well she's on cross. Go ahead.

14 A. It's good.

15 Q. You have an identification card.

16 A. Yeah, I just got it.

17 Q. How'd you get that?

18 A. When I came back down here, ma'am.

19 Q. Wha'd you do to get it?

20 A. Huh? I had ---

21 Q. The ---

22 A. --- to go, ---

23 Q. --- process.

24 A. --- I had to go to the, um, a DMV, know I mean, my lady,
25 my fiancé filled the paperwork out for me, I guess she did,

WAYNE COUEY - REDIRECT EXAMINATION BY MR. NEELY

1 and I got me ID.

2 Q. How do you know she's writing this right thing?

3 A. She write it ---

4 Q. How do you know what she wrote?

5 A. How I know she wrote?

6 Q. Yeah.

7 A. She tell me everything when she put it on there.

8 Q. Okay, and you believe her, okay.

9 A. Okay.

10 Q. Okay. No further questions.

11 THE COURT: Anything further?

12 MR. NEELY: Yes, sir.

13 REDIRECT EXAMINATION BY MR. NEELY:

14 Q. Wayne, you testified that, uh, the way that you knew to
15 go back and see Ms. Blanton was you had a a piece a paper and
16 that Ms. Blanton told you, ---

17 A. Yes.

18 Q. --- could you actually read what was written on that
19 piece a paper?

20 A. No, I can't, sir.

21 Q. Well then how did you know to go back, Wayne?

22 A. When I look at the date, if it say, if it say this month,
23 I know I gotta go back in this month.

24 A. So you know the dates.

25 A. Yeah.

WAYNE COUEY - REDIRECT EXAMINATION BY MR. NEELY

1 Q. All a the other words on that piece of paper ---

2 A. I don't know nuttin' it talk about, sir.

3 Q. Okay. Now, Wayne, when Social Services in in New Jersey
4 was tryin' to take your kids, you told Agent Faust, right, ---

5 A. Yes, I did.

6 Q. --- and he gave ya a travel pass ---

7 A. Yes, I did, yeah.

8 Q. --- and you told Ms. Blanton ---

9 A. Yes.

10 Q. --- and she told ya that you could go, ---

11 A. Yes.

12 Q. --- you just need to notify her and register if you have
13 to register in New Jersey.

14 A. Yeah, I didn't though.

15 Q. Right, right, right. No, no, I'm with ya.

16 A. Yeah.

17 Q. Okay. My question is is this, Wayne, did she give a
18 specific time period that you could stay in New Jersey?

19 A. No, she didn't. No, she didn't.

20 Q. You were under the impression that she was aware of of
21 your family court matters ---

22 A. Yeah.

23 Q. --- and that she okayed you to stay there for as long as
24 it took you to deal with that.

25 A. Yes, when I try to call her and tell her I still gotta go

WAYNE COUEY - REDIRECT EXAMINATION BY MR. NEELY

1 to court, she aint wanna here nuttin' then what she said, she
2 put a outstandin' warrant on me and hung up on me.

3 Q. So in January of 2015 you understood that you had
4 permission from Ms. Blanton to go to New Jersey ---

5 A. 2015? It was two thousand, um, it was 2014 when I went
6 in and I told her, I told, I told her I was goin', I I was
7 leavin' after Christmas, I, know what I mean, I was leavin'
8 after Christmas go up there, I gotta go to court two thousand,
9 uh, fifteen on the 15th and she said okay, know I mean. She
10 said do not get in no trouble when you go up there ---

11 Q. Sorry, let me ask you one question, I'm sorry, Wayne.
12 You told her that you had court on January 15th of ---

13 A. Yeah, ---

14 Q. --- 2015, ---

15 A. --- 15th, yes, sir.

16 Q. --- did she tell you to come in before you left?

17 A. No, she didn't. See, ---

18 Q. Okay.

19 A. --- I thought I will not s -- gonna stay up there that
20 long, I thought I would been up there for 'bout a week or two
21 and then come back, there was not no need, it was prolong or
22 prolong, know I mean, um, my lawyer kept on postpone it, my
23 kids' mother lawyer kept on postpone it and the state kept on
24 postpone it.

25 Q. So you thought because you had permission from

WAYNE COUEY - REDIRECT EXAMINATION BY MR. NEELY

1 Ms. Blanton that you were okay to stay up there.

2 A. Yes, I did. Yes, I did and then when I tried to call her
3 when I had like two two and a half weeks left in January of
4 2015 she told me she put an outstandin' warrant and she hunged
5 up on me twice.

6 Q. Okay, anything else you want the judge to know?

7 A. And I, you know I mean, I I wanna let the judge know I
8 never been in trouble since I I've been on this, the only
9 trouble I've been into, I had problem doin', Your Honor,
10 drivin', that's it, that's only out there I had the problem
11 doin' the drivin', that's it, with no license. Since I've
12 been down here and only been down here for about six, seven
13 years, Your Honor, that's it, aint been in no trouble, get in
14 trouble, know I mean, I caught my charge messin' with, know I
15 mean, a underage ---

16 Q. Sorry, Wayne, uh, is there anything else about this case
17 that you want this judge ---

18 A. This case right here? I don't see why I gotta go do a
19 year for no pro -- and, I mean, no reason and I I will try to
20 call her to let her know I gonna s -- I gotta stay up here for
21 a couple more weeks before I come back down, know I mean, I
22 will try to see, I can, can she hold on till I come back down
23 the followin' month to register.

24 Q. So you tried to provide notice to Ms. Blanton.

25 A. Yes, and she hung on me, told me turn myself in, I got

WAYNE COUEY - REDIRECT EXAMINATION BY MR. NEELY

1 outstandin' warrant 'cause I had a outstandin' warrant for
2 some ticket, drivin' tickets ---

3 MR. NEELY: Thank you, Wayne.

4 THE DEFENDANT: --- at ---

5 THE COURT: Thank you, ---

6 THE DEFENDANT: --- the time.

7 THE COURT: --- sir, you may step step down, please be
8 careful.

9 THE DEFENDANT: Okay.

10 (Whereupon, the defendant left the stand.)

11 (Whereupon, a discussion was held off the record.)

12 THE COURT: Neely.

13 MR. NEELY: Virginia Johnson she's outside supposedly.

14 (Pause.)

15 (Whereupon, the witness came forward.)

16 THE CLERK: Place your left hand on the Bible and raise
17 your right.

18 VIRGINIA ANN JOHNSON, having been
19 first duly sworn, testified as follows:

20 THE CLERK: Thank you.

21 THE COURT: Ma'am, tell us your full name, please, and
22 spell your last name for my court reporter, please.

23 THE WITNESS: It's Virginia Ann Johnson and it's
24 J-O-H-N-S-O-N.

25 THE COURT: Thank you, Ms. Johnson. Mr. Neely.

VIRGINIA ANN JOHNSON - DIRECT EXAMINATION BY MR. NEELY

1 MR. NEELY: Thank you, Judge.

2 DIRECT EXAMINATION BY MR. NEELY:

3 Q. Ms. Johnson, do you know Wayne Couey?

4 A. Yes.

5 Q. What is your relationship with him?

6 A. Fiancé.

7 Q. How long have ya'll been together?

8 A. Uh, been about almost six years now.

9 Q. Almost six years. Ya'll live together?

10 A. Yes.

11 Q. Have ya'll lived together the entire six years?

12 A. No.

13 Q. Why not?

14 A. Oh, 'cause he left for a while. He left for a while, ---

15 Q. When ---

16 A. --- went back to New Jersey.

17 Q. --- when did he leave?

18 A. Um, beginnin' of January 2015, ---

19 Q. When did, ---

20 A. --- I don't know the quite date but I know it's January

21 15th two thousand ---

22 Q. --- when ---

23 A. --- fifteen.

24 Q. --- when did he come back?

25 A. Um, it's close to August, the end a August.

VIRGINIA ANN JOHNSON - CROSS-EXAMINATION BY MS. BOZARTH

1 Q. How long was he supposed to be gone for?

2 A. He was only supposed to be gone about, um, a couple
3 months just because he was 'up there doin' the Court thing but
4 I didn't know he was gonna be gone the entire time.

5 Q. Do you go with him to, when he had to go see Officer
6 Blanton?

7 A. No.

8 Q. Alright. Were were you with him ever when he would talk
9 to Officer Blanton?

10 A. 9Just like like on the phone or somethin' but other than
11 that no, or I sit in the parkin' lot or sumtin', that's it.

12 Q. Okay, but what what you do know is that from January of
13 2015 to August of 2016 he was livin' in New Jersey.

14 A. Yes.

15 Q. Okay. Thank you, Ms. Johnson.

16 THE COURT: Solicitor, anything?

17 CROSS-EXAMINATION BY MS. BOZARTH:

18 Q. He didn't leave in November 2015 to go to New Jersey?

19 A. No, not to my, not to my ---

20 Q. 2014?

21 A. --- knowledge. Sorry?

22 Q. 2014?

23 A. 2014 he was back and forth into court.

24 Q. And you said that that you knew he'd be leaving for New
25 Jersey to be gone for a couple months?

1 A. Yes 'cause when they called him into court last time he
2 had to be over there for two months, didn't make no sense come
3 back down ---

4 Q. So -- okay, ---

5 A. (Indiscernible cross-talk.)

6 Q. --- so when the ---

7 THE COURT: Hang on, hang on, hang on, let her answer,
8 please. Thank you.

9 A. It didn't make no sense ---

10 Q. Sorry.

11 A. --- come back and forth down 'cause of a financial
12 problems ---

13 Q. Sure.

14 A. --- so that's why he stayed so long.

15 Q. So when they called him, um, they told him -- well, you
16 knew when they called him that he'd be gone for t -- a couple
17 months.

18 A. Yeah, 'cause he's goin' back and forth to ---

19 Q. Um-hum, ---

20 A. --- court.

21 Q. --- that makes sense. Uh, and you didn't know he'd be
22 gone the entire time, the entire time meaning?

23 A. The entire year, yeah, I ---

24 Q. Okay.

25 A. --- didn't know he was gonna be gone the entire year.

VIRGINIA ANN JOHNSON - CROSS-EXAMINATION BY MS. BOZARTH

- 1 Q. Did you help him with his registration to get a license
2 or an ID?
- 3 A. ID's for free.
- 4 Q. Sure, okay, ---
- 5 A. Yeah, yeah, a bunch ---
- 6 Q. --- but, ---
- 7 A. --- of 'em.
- 8 Q. --- um, if they're free did you help him get one?
- 9 A. As in how I'm gonna help him get one as in doin' what?
- 10 Q. Did you go with him to get an ID? Did you assist him in
11 any way? Did you, did you help him?
- 12 A. As in fill out paperwork? Hmm.
- 13 Q. If ---
- 14 A. If that's helping, I mean, I I'm understand the
15 question ---
- 16 Q. Yeah, ---
- 17 A. --- it's ---
- 18 Q. --- it ---
- 19 A. --- fillin' out paperwork.
- 20 Q. Did you, did you do that?
- 21 A. Yes.
- 22 Q. Do you often fill out paperwork for him?
- 23 A. Sometimes.
- 24 Q. When don't you?
- 25 A. I mean, sometimes when I'm with him but he ---

1 Q. Okay.

2 A. --- have other people to be fillin' out paperwork as
3 well. I fill out paperwork for a lotta people, ---

4 Q. Okay.

5 A. --- I mean, ---

6 Q. I'm just askin'.

7 A. --- I'm just, I don't know what the pacific [sic], be
8 pacific so I can you know what you ask me.

9 Q. Um, well -- did he tell you -- well, the the paperwork
10 you do for him you help him fill out, ---

11 A. Um-hum.

12 Q. --- you explain it to him?

13 A. Well I actually have to, yeah, I have to 'cause he don't
14 read it all, he don't read ---

15 Q. Um-hum.

16 A. --- that well so . . .

17 Q. So you read to him what you're writing?

18 A. Or he's, somebody else is readin' to him and writing out.
19 Someone actually have to fill it out 'cause he don't ---

20 Q. Yeah.

21 A. --- spell too good or he'll, he don't read that
22 well so . . .

23 Q. Okay, but you or someone, um, is letting him know about
24 the paperwork?

25 A. Yes.

VIRGINIA ANN JOHNSON - REDIRECT EXAMINATION BY MR. NEELY

1 Q. Okay. No further questions.

2 A. Okay.

3 THE COURT: Anything, Mr. Neely, on those three or four
4 questions?

5 MR. NEELY: Um, just very very briefly.

6 REDIRECT EXAMINATION BY MR. NEELY:

7 Q. I think what the solicitor was trying to get to you help
8 Wayne with paperwork because he can't read, right?

9 A. He, yes, he ---

10 Q. And ---

11 A. --- don't read well so I I just try to make him
12 understand what the paperwork actually is majority of the
13 time.

14 Q. You you have trouble helpin' him understand though?

15 A. Sometimes.

16 Q. Sometimes.

17 A. Okay, nothing further.

18 THE COURT: Ma'am, you may step down, please be very
19 careful.

20 THE WITNESS: Alright, thank you.

21 (Whereupon, the witness left the stand.)

22 MR. NEELY: We rest, Your Honor.

23 THE COURT: Alright, anything from the State?

24 MS. BOZARTH: Yes, Your Honor, um, we'd like to recall
25 Master Deputy Blanton.

DEBRA BLANTON - DIRECT EXAMINATION BY MS. BOZARTH

1 THE COURT: Alright.

2 (Whereupon, the witness returned to the stand.)

3 THE COURT: Officer, you were previously sworn, you
4 remain under oath.

5 THE WITNESS: Yes, sir, thank you.

6 THE COURT: Solicitor.

7 DIRECT EXAMINATION BY MS. BOZARTH:

8 Q. Afternoon again. Um, what was your understanding of this
9 trip to New Jersey?

10 A. Uh, when Mr. Couey came in and registered in October I
11 believe it was, uh, a few weeks after that, uh, he came by the
12 office advised that he would, uh, probably have to go back to
13 New Jersey on family court issues, um, that's when he notified
14 us and I believe it was around, um, October, November of
15 2014.

16 Q. Did Mr. Couey call you in January to notify you that he
17 was still in New Jersey and not coming in?

18 A. If he did I do not recall that conversation.

19 Q. And when the law changed in 2010, did you go over the
20 requirements of the sex offender registry?

21 A. I did, I did with every offender we have.

22 Q. From two times to four times a year?

23 A. That's correct for those that that applied to, yes.

24 Q. And you go over verbally all the requirements and they
25 initial them?

DEBRA BLANTON - CROSS-EXAMINATION BY MR. NEELY

1 A. Yes, that's correct. I sound like a broken office [sic]
2 in our record, that you can ask anyone in the hallway. I've
3 done this for 7, I ca -- years. I can probably do it in my
4 sleep.

5 Q. Um, if an offender ever told you they would be gone
6 longer than ten days, what would you tell them?

7 A. They would do a temporary change of address in our
8 office.

9 Q. Thank you.

10 THE COURT: Yes, sir, Mr. Neely.

11 MR. NEELY: Thank you, Judge.

12 CROSS-EXAMINATION BY MR. NEELY:

13 Q. Do you, do you take handwritten notes on every call that
14 comes into your office?

15 A. I do not.

16 Q. So if if, I mean, there's 684 sex offenders in
17 Spartanburg County.

18 A. Four hundred and -- 648, dyslexic, I understand.

19 Q. It happens sometimes. So, uh, that they're all callin'
20 I'm sure, a a a lotta the time.

21 A. Some of 'em do, yes.

22 Q. Right, and and you're not takin' notes on every single
23 one ---

24 A. That's ---

25 Q. --- of those ---

MOTIONS AND MATTERS

1 A. --- correct.

2 Q. --- phone calls so it is possible that Mr. Couey
3 called ---

4 (Indiscernible cross-talk.)

5 A. As I said if he did, I do not recall.

6 Q. Right, but you're not saying it didn't happen, you're
7 just saying you don't ---

8 A. That's ---

9 Q. --- recall.

10 A. --- correct.

11 Q. Okay. Nothing.

12 THE COURT: Thank you. You may step down, please be
13 careful.

14 (Whereupon, the witness left the stand.)

15 THE COURT: Anything from the State?

16 MS. BOZARTH: Nothing further, Your Honor.

17 THE COURT: Alright, the defense.

18 MR. NEELY: Your Honor, uh, I'm gonna renew my motion for
19 directed verdict this time based on the grounds Mr. Couey is
20 charged with domestic, with the failure to register second
21 offense, the State hasn't provided evidence of a first offense
22 so I'm gonna move for directed verdict on those grounds and
23 then as to the first offense charge, Your Honor, um, Mr. Couey
24 and Ms. Johnson both testified that, uh, he didn't go very far
25 in school, that he has learnin' disabilities, that when he was

MOTIONS AND MATTERS

1 in school he was takin' special ed classes. Your Honor, he
2 can't read, he can't write, Ms. Johnson has to take notes for
3 him when she is with him. As the solicitor pointed out time
4 and time again Ms. Johnson had to help Mr. Couey get a, uh,
5 South Carolina issued ID card. Um, as Ms. Blanton testified
6 on direct the first time she was on on the stand, she
7 testified that what she told Mr. Couey was that he would have
8 to provide her notice and that he would or or that he would
9 have to provide her notice, she didn't say written notice, He
10 would have to notify me and then register in the new county if
11 that was applicable, she didn't say that he would have to
12 provide written notice to her. Um, Wayne testified that he
13 called in January of 2015, said that he was gonna be in New
14 Jersey and then, uh, that and and Ms. Blanton doesn't know
15 that call happened or not, Your Honor, so based on those
16 grounds I would move for directed verdict and subsequently if
17 if the Court denies the directed verdict motion, I would say
18 that the State has not proved their case beyond a reasonable
19 doubt under *Latimore*.

20 THE COURT: Alright, solicitor.

21 MS. BOZARTH: Your Honor, he signed something saying that
22 he had to provide written notice and not only did Deputy
23 Blanton say she's been here for seven years, she does this in
24 her sleep, she tells, um, these sex offenders what they're
25 signing, um, and a b -- and in addition to Deputy Blanton, his

MOTIONS AND MATTERS

1 fiancé also explained that she explains whatever sh --
2 paperwork she's filling out for him or whatever paperwork that
3 he deals with, uh, which in this case would be the sex
4 offender registry paperwork, um, and just because she doesn't
5 have a record of the phone call doesn't mean; one, that it
6 happened or; two, that that notice was proper, um, as he did
7 sign something saying he has written notification.

8 THE COURT: Yes, sir.

9 MR. NEELY: Sorry, Your Honor, just just one point that
10 that that comes to mind, there's been no evidence that
11 Mr. Couey is actually the one that signed that piece a paper.
12 Ms. Blanton didn't testify to that, Wayne didn't testify to
13 that, Virginia didn't testify to that.

14 THE COURT: Well, uh, okay. Te -- and a whole lotta time
15 been spent on he, whether he signed it or didn't sign it and I
16 understand, you know, where everybody's goin' with that, uh,
17 but the statute is passed by the General Assembly, it's clear,
18 okay, it's clear, it puts everybody on notice, passed in two
19 thou, last modified in 2010, June 2010, alright, in the
20 legislature, so, uh, the Court denies your motions, uh,
21 Mr. Neely. I don't read *Latimore*, uh, as as broadly as as you
22 want this court to and I understand your position but I
23 certainly don't. Uh, as to the elements of the offense, uh,
24 your client actually testified to the, uh, uh, element that
25 that you talkin' about, I think you're tryin' to say the State

MOTIONS AND MATTERS

1 never offered his prior convictions on the first offense but
2 he testified that he was convicted, uh, of the first offense,
3 did he not?

4 MR. NEELY: Your Honor, I don't, I don't recall that ---

5 THE COURT: Well, ---

6 MR. NEELY: --- testimony.

7 THE COURT: --- you ---

8 MS. BOZARTH: It's ---

9 THE COURT: --- wanna look at?

10 MR. NEELY: Yes, sir, I would.

11 THE COURT: Go right over here (indicating).

12 (Whereupon, a discussion was held off the record.)

13 THE COURT: Maggie could get it for ya.

14 COURT REPORTER: Huh?

15 THE COURT: Is the testimony -- you have it right there?

16 You don't ---

17 COURT REPORTER: I'd have to get it on the computer, I
18 don't have my computer.

19 THE COURT: Oh. Well, ---

20 COURT REPORTER: If ---

21 THE COURT: --- okay, ---

22 COURT REPORTER: --- if you want me to borrow a laptop.

23 THE COURT: Not -- he he testified, uh, ---

24 MS. BOZARTH: He did to the ---

25 THE COURT: --- the ruling a the Court is he testified

MOTIONS AND MATTERS

1 to, I wrote it down, he, I'm makin' notes up here, I'm not,
2 I'm not workin' the crossword puzzle, he he testified that he
3 had a prior conviction, uh, four of those and somewhere here,
4 I've got the day that that occurred but the law changed in
5 2010, he was advised of the changes, although I will say this
6 and I'll put this on the record, it, I don't know that the
7 sheriff's department or anybody else is required to tell him
8 that, the legislature tells all of us what the law of this
9 state is and the fact, and I'm gonna go into this a little bit
10 too, the fact that the officer may or may not have remembered
11 a conversation, uh, is not dispositive of the issue either
12 because, uh, the officer and nor did she mean to, I certainly
13 don't take it that way, uh, she doesn't have to explain it and
14 she can't modify it so if he's supposed to register once a
15 quarter, he has to register once a quarter, okay, so court
16 finds, uh, him guilty beyond a reasonable doubt. Anything
17 further?

18 MS. BOZARTH: Nothing further from the State, Your Honor.

19 THE COURT: Alright, you got a sentencing sheet?

20 MS. BOZARTH: Yes, sir.

21 (Pause.)

22 MR. NEELY: Judge, we'll just stand here unless you want
23 us at the rail.

24 THE COURT: That's fine.

25 MS. BOZARTH: Permission to approach.

MOTIONS AND MATTERS

1 THE COURT: Okay.

2 (Whereupon, a discussion was held off the record.)

3 THE COURT: On Indictment 2016-5351, sir, you're
4 committed to the State Department Corrections for 366 days,
5 this is mandated by the legislature. Good luck to ya.

6 THE DEFENDANT: Alright. Hey, ---

7 MS. MORICLE: Thanks, Your Honor.

8 THE DEFENDANT: (Indiscernible cross-talk.)

9 MS. BOZARTH: Thank Your Honor.

10 MR. NEELY: Your Honor, credit for time that he's, ---

11 THE COURT: Well ---

12 MR. NEELY: --- he served 41 days on the front end.

13 THE COURT: Forty-one days?

14 (Whereupon, a discussion was held off the record.)

15 MS. BOZARTH: That's fine, Your Honor.

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1 CERTIFICATE OF REPORTER
2

3 I, Margaret A. Woods, Court Reporter in and for the State
4 of South Carolina at Large, hereby certify that I reported the
5 preceding case on March 14, 2017 at the time and place
6 heretofore set forth; and that the foregoing pages numbered
7 from 3 through 69, inclusive, constitute a true and accurate
8 transcription of my stenographic notes of the said proceeding.

9 I further certify that I am neither attorney nor counsel
10 for, nor related to or employed by any of the parties
11 connected to the action, nor am I financially interested in
12 the action.

13 June 22, 2017
14

15 Margaret A. Woods

16 Margaret A. Woods, Court Reporter
17 in and for the State of South Carolina at Large.
18
19
20
21
22
23
24
25

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

AGENCY INFORMATION			
Agency Name:	Spartanburg County SC Sheriff's Office		
Agency Address:	8045 Howard Street Spartanburg SC 29303		
Agency Phone:	(864)503-4500	Agency Fax:	(864)503-4561
Agency Email:	dblanton@spartanburgcounty.org		
OFFENDER INFORMATION			
Name:	WAYNE RICKY COUEY	Registration #:	0000017164
Birthplace:	PATTERSON, NJ, United States	Alt Reg#:	
DOB:		SSN:	
Age:	35	FBI:	34895F86
DL# and state:	SCDL#	DOC:	
State ID:		NCIC:	X081662737
Nationality:	USA	Religion:	
Marital Status:	Single	Sexual Preference:	
PHYSICAL DESCRIPTION			
Sex:	Male	Eye Color:	Brown
Build:	Slight/Slim/Thin	Wears Glasses:	
Height:	6'1"	Hair Color:	Black
Weight:	180	Hair Length:	Short/Collar
Race:	Black	Handedness:	Right
Skin Tone:	Dark Brown		
Facial Hair:			
Name of Gang:			
Risk Level: Adult Tier III Offender			
SCARS MARKS TATTOOS			
TATTOO on L_arm GRIM REAPER "SOUTHERN BORN, SOUTHERN BRED, WHEN I DIE I'LL BE SOUTHERN DEAD"			
TATTOO on R_arm RIP CELTIC CROSS, TONE			
MEDICAL INFORMATION			
Blood Type: Unknown	DNA Available: No	Fingerprint on File: Yes	
	DNA ID/Loc:	Fingerprint ID:	
Medical Conditions:			
REGISTRATION INFORMATION			
Compliance:	COMPLIANT	Registration Start Date:	01/24/2008

I attest that the information that I have provided and listed above is accurate W.C. so dated 10/23/14

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

Status: Active		Registration End Date:	
Verification Frequency: Address		Last Verification Date: 10/23/2014	
LIFETIME REGISTRANT		Next Verification Date: 01/22/2015	
ALIAS			
Alias Name:	Alias DOB:	Alias DL #:	Alias SSN:
NONE			
ADDRESSES			
CURRENT ADDRESS(ES)			
Home: [REDACTED] SPARTANBURG, SC 29301			
PHONE NUMBERS			
PHONE:		DESCRIPTION:	
Primary [REDACTED]		CELL	
EMPLOYMENT			
Business Name:	Position:	Employment Address:	Phone:
UNEMPLOYED			
PROFESSIONAL LICENSES			
License Date:	Authority:	Number:	Description:
		NONE	
SCHOOL			
School Name:		School Address:	
NONE REPORTED			
VOLUNTEER			
Organization:		Organization Address:	
NONE REPORTED			
ASSOCIATES			
Associate Name	Associate Address & Phone	Relationship to Offender	Age
VIRGINIA CAINES	[REDACTED] SPARTANBURG, SC 29302 Ph# [REDACTED]	Girlfriend	
VEHICLES			
Vehicle type: NR - None Reported	Make: None Reported	Model: None Reported	Color:
Style:	License:	State:	Plate Category:
VIN: O	Comments:		

I attest that the information that I have provided and listed above is accurate W.C. so dated 10/23/14

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

OFFENSES				
PRIMARY OFFENSE				
New Jersey Offense				
Offense: 2C:14-2 SEXUAL ASSAULT				
Offense City:	PASSAIC PD	Offense County:	Passaic	
Case Number:	46976	Date Committed:		
NCIC Number:	1109	Date Convicted:	04/22/1999	
Sentence:	106 DAYS	Date Released:		
General Info:				
VICTIM(s):	Age:	Gender:	Relationship to Offender:	Race:
	14	FEMALE	Girlfriend	Black
Crime Info:				
WEAPON:	Weapon Type:	Weapon Make:	Weapon Info:	
	None			
South Carolina Offense				
Offense: 23-3-470(A)(B)(1) SEX OFFENDER REGISTRY VIOLATION 1ST OFFENSE				
Offense City:		Offense County:	Spartanburg	
Case Number:	2008011306	Date Committed:		
NCIC Number:	3699	Date Convicted:		
Sentence:	30 DAYS	Date Released:		
General Info:				
VICTIM(s):	Age:	Gender:	Relationship to Offender:	Race:
Crime Info:				
WEAPON:	Weapon Type:	Weapon Make:	Weapon Info:	
INTERNET				
Type:	Name:	Address:	Password:	
Email				
Screen Name	crypt29		BRITTANY14	
Screen Name	crypt29			
COMMENTS				
PROBATION INFORMATION				

I attest that the information that I have provided and listed above is accurate W.C. so dated 10/13/14

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

Probation Status: Probation/ Fed Probation			
Probation Period: 01/01/1900 - 01/01/1977			
Probation County:	SPARTANBURG	Probation Court:	
Probation Officer:	FAUST	Probation Court Type:	
Probation Officer Phone#:	8645952696	Probation Judge:	
Probation Condition:			

I attest that the information that I have provided and listed above is accurate WAC so dated 10/23/11

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

NOTICE OF SEX OFFENDER REGISTRY FORM

Pursuant to S.C. Code Ann. §23-3-430, "Any person, regardless of age, residing in the State of South Carolina, who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in any comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. In addition, upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor."

All offenders must register bi-annually or quarterly for life depending upon his/her classification as a Tier II or Tier III offender (See Attachment "A").

I understand that I am required to register and I MUST:

W.C. Present myself in person to register and re-register at the sheriff's office of the my primary county of registration and provide information on any and all county or state locations where I reside, own real property, am employed, or attend, am enrolled, volunteer, intern, or carry on a vocation at any public or private school including but not limited to a secondary school, adult education school, college or university and any vocational, technical or occupational school within the prescribed time frames as set forth below:

- An offender being released from DOC or DJJ at the completion of their sentence, to an early release program, to extended work release, or upon parole or release to the custody of a parent, custodian, or guardian MUST register within one (1) business day of his/her release.
- An offender sentenced to probation or new resident of the state that are to be supervised by PPP MUST register within one (1) business day of his/her sentencing or establishing residency.
- An offender who is not under the jurisdiction of the DOC, PPP, or DJJ at the time of moving into the State of South Carolina MUST register within three (3) business days of establishing residency.

W.C. Provide all information, as prescribed by SLED, in order to be considered registered. (For a complete list of information required see Attachment "B")

W.C. Provide written notification in person within three (3) business days of establishing a new residence, or acquiring real property in the same county, to the sheriff's office of the offender's primary county of registration (S.C. Code Ann. §23-3-460(C));

W.C. Provide written notification in person within three (3) business days of the change of his/her permanent or temporary address to a new county with the county sheriff in the new county and in person to the county sheriff in the previous county with whom he/she last registered. (S.C. Code Ann. §23-3-460(D))

W.C. Provide written notification in person within three (3) business days of change of address to a new jurisdiction to the county sheriff with whom the person last registered. (S.C. Code Ann. §23-3-460(F))

W.C. The offender must comply with the new jurisdiction's registration requirements; Note: Under the Adam Walsh Child Protection and Safety Act of 2006, 18 United States Code 2250, if you travel to another jurisdiction and fail to

I attest that the information that I have provided and listed above is accurate W.C. so dated 10-23-14

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

register as required, you are also subject to federal prosecution that carries penalties of a fine and/or imprisonment up to ten years:

- W.C. Provide written notification in person within three (3) business days to the sheriff of the county where he/she is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation of *each change in attendance, enrollment, volunteer status, intern status, employment or vocation status at any public or private school*, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school. (S.C. Code Ann. §23-3-460(E)).
- W.C. Provide written notice in person of termination of employment or school affiliation within three (3) business days to the sheriff's office in the offender's primary county of registration; this includes residents, non-resident school affiliation, and non-resident employment.
- W.C. I understand that I may be required to register in any jurisdiction where I am employed, carry on a vocation, am a student, or temporarily visit. It is MY responsibility to check with the local law enforcement about registration requirements in that jurisdiction.
- W.C. Notify the sheriff of my county of primary registration of any intention to move out of country or travel out of country twenty-one (21) days in advance of the date of departure. Provide all required information as prescribed by SLED and the Sex Offender Registration and Notification Act (SORNA).
- W.C. I must re-register with the sheriff's office of my county of primary registration within three (3) business days of my return.
- W.C. I understand I am prohibited from living in campus housing at a public institution of higher learning supported in whole or in part by the state. (S.C. Code Ann. §23-3-465)
- W.C. I understand if I am convicted of certain offenses against a minor, I am prohibited from living within one thousand feet of a school, daycare center, children's recreational facility, park or public playground. If I am living at a prohibited address, I may be ordered to leave within thirty days. (S.C. Code Ann. §23-3-535)
- W.C. I understand that failure to register or provide notification of change of address, telephone number (fixed location phone or cell phone), vehicle information, or notification of permanent or temporary changes in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school is a crime. (S.C. Code Ann. §23-3-470 and SORNA §114)
- W.C. I understand that willfully giving false information or omitting required information when registering or re-registering is a crime. (S.C. Code Ann. §23-3-475)
- W.C. I understand that failing to provide internet account(s) or internet identifier(s) information, or failing to provide notification of change of my internet account(s) or internet identifier(s) is a crime. (S.C. Code Ann. §23-3-555(B)(3))
- W.C. I understand that knowingly and willfully giving false information regarding my internet account(s) or internet identifier(s) is a crime. (S.C. Code Ann. §23-3-555(B)(3))
- W.C. Under penalty of perjury, I certify that to my knowledge all the information I have provided this agency is true and accurate.

I attest that the information that I have provided and listed above is accurate W.C. so dated 10-23-14

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

Below is an outline indicating what months you will be required to register in the future. For instance, if you are required to register bi-annually and your birthday is in January, you will register in January and July. If you are required to register quarterly and your birthday is in January, you will register in January, April, July and October.

Birth Month	2nd Quarter	3rd Quarter	4th Quarter
January	April	July	October
February	May	August	November
March	June	September	December
April	July	October	January
May	August	November	February
June	September	December	March
July	October	January	April
August	November	February	May
September	December	March	June
October	January	April	July
November	February	May	August
December	March	June	September

MY NEXT REGISTRATION IS IN THE MONTH OF

January 2015
 (TO BE COMPLETED BY SHERIFF'S OFFICE)

I understand that I am required to register pursuant to S.C. Code Ann. § 23-3-430 and that I have received notice of the registry conditions listed above, both verbally and in writing. By initialing beside each condition, I indicate that I understand my responsibilities.

Wayne
WAYNE
 Signature of Offender

Covey
 Print Last Name

10/23/2014
 Date

SCDC/DJJ Number

SC01791549
 SID Number

0000017164
 SRS/Reg. Number

Paula Blank
 Signature of Agency Employee

BLANK
 Print Last Name

10/23/2014
 Date

Witness Signature

Witness (Print Name)

10/23/2014
 Date

(CJ-031) (12/2011)

I attest that the information that I have provided and listed above is accurate W.C. so dated 10-23-14

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

Sex Offender Registration Fee

Pursuant to the current South Carolina General Appropriations Act, each Sheriff is authorized to charge and collect an annual amount of one hundred fifty (\$150) dollars from each sex offender required to register by law.

Please Print Clearly

COUEY	WAYNE	RICKY
Offender's Last Name	First	Middle

Sex Male Race Black DOB [REDACTED] SSN# [REDACTED]

To Be Completed by Registering Agency

Spartanburg County SC Sheriff's Office
Agency

☐ \$150.00 Annual Fee Paid

☒ Indigent

Failure to Pay

10-23-2014
Date

Receipt Number

*Please keep original for your records, 1 copy to Offender, and 1 copy to be forwarded along with \$50.00 for each registration to:

The South Carolina Law Enforcement Division
Attn: Finance
P.O. Box 21398
Columbia, SC 29221

I attest that the information that I have provided and listed above is accurate W.C. so dated 10.25.19

WITNESSES

SPTBG. CO. SHERIFF'S OFFICE

Jimmy W. Davis

ARREST WARRANT NUMBER

2015A4210100341

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

JAN 11 2017

1. SENTENCE MADE VERDICT

REPORT ENDED

3. CARD PULLED

INDEXED

4. CHECKED WARRANTS

5. CHECKED SIGNATURE

Foreperson of Petit Jury
Date:

ASSESSMENT AND
FINE CARD MADE

COMPUTER

COMPUTER

DOCKET NO.

16-GS-42-5351

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

TERM

THE STATE
VS.

WAYNE COUEY, JR.

Indictment for
VIOLATION OF SEX
OFFENDER REGISTRY-2ND

SC Code: 23-3-470 (A)

CDR Code: 2607

Class MIS-UNC

FILED
CLERK OF COURT
Spartanburg County

2017 JAN 13 PM 2:35

M. HOPE BLACKLEY

RECEIVED

MAR 23 2017

SC Court of Appeals

RECEIVED

MAR 23 2017

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

JAN 11 2017

the

At a Court of General Sessions, convened on _____

Grand Jurors of Spartanburg County present upon their oath:

VIOLATION OF SEX OFFENDER REGISTRY- 2ND

That Wayne Couey, Jr., did in Spartanburg County on or about January 30, 2015, after having been convicted of sexual assault in New Jersey on April 22, 1999, fail to register annually as a sex offender with the Spartanburg County Sheriff's Department in Spartanburg, South Carolina, as required by law; to wit: the Defendant failed to register with the Spartanburg County Sheriff's Department, in more than a year, as required by law, in violation of §23-3-470 (A) of THE CODE OF LAWS OF SOUTH CAROLINA (1976), as amended.

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

Sarah B. Bozarth
 ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Taylor D. Gilliam
Appellate Defender

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

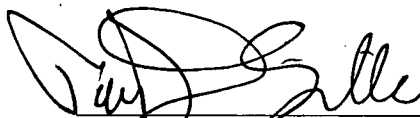
ATTORNEY FOR APPELLANT

This 7th day of June, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Taylor D Gilliam
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 7th day of June, 2018.

RECEIVED
JUN 07 2018
SC Court of Appeals