

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Florence County

Honorable George M. McFaddin, Circuit Court Judge

MICHAEL D. MADDOX,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000414

APPENDIX

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RECEIVED
NOV 04 2019
S.C. SUPREME COURT

State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2013-GS-21-01327
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Michael D. Maddox,	)	
	)	
Defendant.	)	
	)	

July 18, 2014
 Florence, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge

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

Todd Tucker, Esquire
 Attorney for the Plaintiff

Daniel Jordan, Esquire
 Attorney for the Defendant

Krystal J. Smith
 Court Reporter

I N D E X

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E X H I B I T S

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

1 JULY 18, 2014

2 (WHEREUPON, the proceedings began at 12:03 p.m.)

3 THE COURT: All right. We're going to take care of a
4 matter that needs to be done outside of the -- outside of the
5 presence of the audience. I'm going to ask everyone who is
6 not involved in this case to exit the courtroom.

7 MR. JEPERTINGER: You folks that are not involved with
8 Mr. Maddox, step outside.

9 (WHEREUPON, there was a pause in the proceedings.)

10 THE COURT: Yes, sir?

11 MR. TUCKER: Thank you, Your Honor. May it please the
12 Court. This is Indictment 2013-GS-21-1327, State of South
13 Carolina versus Michael Devonte Maddox.

14 Mr. Maddox is pleading pursuant to *North Carolina v.*
15 *Alford* to criminal sexual conduct with a minor under the age
16 of eleven. The sentence for that is 25 years to life. This
17 is a negotiated plea with a negotiated sentence of 25 years.

18 THE COURT: Mr. Jordan, do you represent Mr. Maddox?

19 MR. JORDAN: I do, Your Honor.

20 THE COURT: Have you explained to him the offense of
21 criminal sexual conduct with a minor or an attempt, first
22 degree, the fact that it's a minimum mandatory 25 years,
23 maximum life, the fact that this is a very special category of
24 crime in that it's a violent offense and it adversely affects
25 his custody status, and it's a most serious offense? In

1 addition to that, it's a non-parolable offense. He will serve
2 this day for day subject to the 85-percent rule.

3 In addition to that, there are enormous collateral
4 consequences to this plea, which include but are not limited
5 to sex offender registry and monitoring. Does he understand
6 all the collateral consequences?

7 MR. JORDAN: He does, Your Honor.

8 THE COURT: And how does he wish to plead?

9 MR. JORDAN: Guilty pursuant to North Carolina v. Alford.

10 THE COURT: And do you agree with his decision to do so?

11 MR. JORDAN: I do, Your Honor.

12 THE COURT: Do you feel if called upon to do so, the
13 State could prove him guilty beyond a reasonable doubt?

14 MR. JORDAN: I do, Your Honor.

15 THE COURT: All right. Let's place Mr. Maddox under
16 oath, if we could.

17 THE CLERK: If you will, sir, raise your right hand.

18 (WHEREUPON, the defendant complied.)

19 THE CLERK: Do you swear to tell the truth, the whole
20 truth, and nothing but the truth, so help you God?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Mr. Maddox, are you under the influence of
23 any drugs or alcohol here today?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are you experiencing any kind of physical or

1 mental problem that could prevent you from understanding
2 what's going on here today?

3 THE DEFENDANT: No, sir.

4 THE COURT: Pay very close attention as the State
5 summarizes the facts that bring us here today.

6 MR. TUCKER: Thank you, Your Honor. May it please the
7 Court.

8 This incident occurred on May the 14th, 2013, during the
9 daylight hours. The incident location is [REDACTED]
10 Court, which is in Lake City in the county of Florence.

11 On that date and time, the victim, who was a four-year-
12 old minor, and her mother -- her mom dropped -- and for the
13 record, Ms. Mack is seated here in the courtroom. She is the
14 mother of the victim.

15 At any rate, Ms. Mack took her four-year-old daughter to
16 Ms. Mack's mother, where she normally keeps her for -- while
17 Ms. Stephanie Mack goes to work. On this particular day when
18 she dropped her child off, there were two people in the
19 residence at that time, one of whom was Michael Maddox. Mr.
20 Maddox is the adopted brother of Stephanie Mack and lived
21 there in that particular residence.

22 At any rate, it was Ms. Mack's understanding that Ms.
23 Mack's mother was going to be there and come sometime shortly
24 thereafter to watch the child. At some point, Ms. Mack called
25 back home, just back to where her daughter was to her mom's,

1 to inquire as to what was going on and if everything was fine.

2 At that point, she spoke to her daughter and her daughter
3 indicated that Michael, the defendant, had kissed her on the
4 lips and that she had said a couple other things that alarmed
5 Ms. Mack. Ms. Mack took off from work immediately, went to
6 that address, retrieved her child, and was talking to her a
7 little bit at length and talking to her mother, who was also
8 there in the residence.

9 The daughter conveyed to Ms. Mack that -- again, she
10 identified Mr. Maddox as the one who had done this. Not only
11 had he kissed her on the lips, but in her words -- the four-
12 year-old child's words -- he had put his doodoo or made her
13 taste his doodoo, describing what was oral sex. She also
14 indicated that Michael had put his doodoo in her doodoo,
15 which, of course, is describing what everyone took to mean
16 that he had placed his penis in her vagina.

17 At any rate, Ms. Maddox went straight -- or Ms. Mack went
18 straight to the emergency room there in Lake City with her
19 child. The doctor there -- when he became aware of the
20 allegations, law enforcement was notified. They came and
21 spoke to the victim and spoke to the victim's mother. They
22 made arrangements to have the child interviewed by Dr. Kathy
23 Saunders.

24 Ms. Saunders eventually did a forensic examination the
25 following day. She found physical findings consistent with

1 what the child had described in terms of having been forced to
2 perform oral sex and vaginal sex as well.

3 Also, Your Honor, Ms. Mack had an appointment at the Care
4 House. She was seen over there. She was examined by one of
5 the forensic counselors there. She recounted essentially the
6 same thing, in essence identified Mr. Maddox as the one who
7 had performed or who had done these things to her. Mr. Maddox
8 was arrested shortly thereafter.

9 In terms of a prior record, Your Honor, he does not have
10 one. He was 16 years old when this happened. But for his
11 age, that's why we're putting it up as a 25-year negotiated
12 sentence, and the fact that he has no prior record.

13 THE COURT: Are those facts true and accurate, Mr.
14 Maddox?

15 THE DEFENDANT: To an extent.

16 THE COURT: All right. And you believe that they have
17 overwhelming evidence -- regardless of whether you maintain
18 your innocence, they -- you believe that they have
19 overwhelming evidence to establish your guilt?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you believe that you are receiving the
22 benefit of the bargain here today?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. You stand before me pleading
25 guilty, but you don't have to plead guilty to anything. You

1 could exercise your right to a jury trial. In that process,
2 the jury would determine whether or not the State could
3 actually prove you guilty beyond a reasonable doubt.

4 I would charge the jury as a matter of law that you're
5 presumed to be innocent. No one could require that you take
6 the witness stand. Now, if you wanted to, you could and you
7 could subpoena witnesses on your own behalf.

8 In addition to that, you and your lawyer could cross-
9 examine the State's witnesses. You'd have an opportunity to
10 eyeball them and confront them as they testified against you.

11 Do you realize by pleading guilty you're giving up all
12 these rights?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you still wish to plead guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Are you indeed guilty?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Plea negotiations from the State
19 is the minimum mandatory 25 years?

20 MR. TUCKER: That's correct, Your Honor.

21 THE COURT: And that's a non-suspendable minimum
22 mandatory 25 years?

23 MR. TUCKER: It is, Your Honor.

24 THE COURT: Is that your understanding, Mr. Jordan?

25 MR. JORDAN: It is, Your Honor.

1 THE COURT: Is that your understanding, Mr. Maddox?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Maddox, you understand that if I accept
4 this plea, you don't get a day more than 25; you don't get a
5 day less. That's what you get. And you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Has anybody promised you
8 anything, threatened you, pressured you, mistreated you in any
9 way, shape or form in an effort to get you to plead guilty
10 here today?

11 THE DEFENDANT: No, sir.

12 THE COURT: It's been your decision to plead guilty?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are you indeed guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. This matter -- tell me about your
17 lawyer. Are you satisfied with your lawyer?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Has he done everything that you've asked him
20 to do?

21 THE DEFENDANT: He's been very cooperative.

22 THE COURT: Has he not done anything that you've asked
23 him to do?

24 THE DEFENDANT: He's been great.

25 THE COURT: All right. Have you understood all your

1 conversations with him?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you need any additional time to confer
4 with him?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You do?

7 THE DEFENDANT: Oh, no.

8 THE COURT: You mean no? Okay.

9 THE DEFENDANT: No, sir.

10 THE COURT: All right. Very good. Have you understood
11 all my questions?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Have your answers been truthful?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand you have ten days to appeal
16 any decision I might render here today?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Based on your testimony, I find there's a
19 substantial factual basis for your plea. That your decision
20 was freely and voluntarily entered into, knowingly and
21 intelligently, with the consent of competent counsel with whom
22 you say you're satisfied.

23 I'll accept your plea and be glad to hear from you and
24 your lawyer.

25 MR. JORDAN: Thank you, Your Honor. May it please the

1 Court.

2 Your Honor, Mr. Maddox is 17 years old and he's been
3 incarcerated since May 21st, 2013; so for the past 427 days.
4 He tells me he moved to Lake City about five years ago when he
5 was adopted by Ms. Nancy Brown.

6 Your Honor, while he was in the Department of Juvenile
7 Justice before being transferred back here to Florence County
8 Detention Center, he was working on his GED. He hopes to go
9 forward and get a GED and get some sort of education while he
10 is in the Department of Corrections.

11 Your Honor, he is obviously very remorseful for what has
12 gone on here. I would ask that you consider giving him credit
13 for the 427 days that he has done up to this point and
14 accepting the solicitor's recommended 25-year sentence.

15 THE COURT: Mr. Maddox, do you want to say anything?

16 THE DEFENDANT: Yes, sir. I want to tell my sister I'm
17 sorry for the pain I caused.

18 MR. TUCKER: And, Your Honor, for the record, I spoke to
19 Ms. Mack earlier this morning and she indicated that while she
20 wished to be present for the plea, she did not wish to address
21 the Court.

22 SENTENCE

23 THE COURT: All right. Mr. Maddox, on Indictment 2013-
24 GS-21-01327, criminal sexual conduct with a minor, the
25 sentence of the Court is that you be committed to the State

1 Department of Corrections for a period of 25 years. Give him
2 credit for 427 days. \$40 fee. Good luck to you.

3 MR. TUCKER: Thank you, Your Honor.

4 MR. JORDAN: Thank you, Your Honor.

5 (WHEREUPON, the proceedings ended at 12:15 p.m.)

6

7 --- END REQUESTED TRANSCRIPT ---

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I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 13 constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Florence County, South Carolina, on the 18th day of July, 2014.

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

Krystal J. Smith

Court Reporter

20 Florence, South Carolina
21 October 22, 2016

FORM 5

FILED

STATE OF SOUTH CAROLINA

COUNTY OF Florence

2015 APR 13 PM 3:09

IN THE COURT OF COMMON PLEAS

Michael D. Macdoux #360685
Full name and prison number (if any) of Applicant.CONNIE REEL-SHELDON
CCCP & GS
FLORENCE COUNTY, SC

2015 CP 21 1089

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Turbeville Correctional Institution
2. Name and location of Court which imposed sentence Florence City - County Complex
General Sessions Court 12th Circuit 190 N. Tryon St. MSC E Florence SC 29501
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which

sentence was imposed:

- (a) 2013-GS-21-01327
 (b) _____
 (c) _____

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

- (a) 7/18/14 25 years
 (b) _____
 (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty ✓
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

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

NO

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

- (a) the name of each Court to which you appealed:
 i. _____
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. _____
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. _____
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. _____

- ii. _____
- iii. _____

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

- (a) I wasn't aware of the circumstances of the appeal process.
- (b) _____
- (c) _____

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

- (a) Ineffective Assistance of Counsel (6th Amendment)
- (b) Sufficiency of Indictment, Subject of Matter Jurisdiction (14th & 5th Amendments)
- (c) Involuntary Guilty Plea (6th Amendment)

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

- (a) Counsel failed to file proper motions, Counsel also failed to investigate the facts and laws of my case.
- (b) State indictment is insufficient because the statutes of indictment doesn't fit with what I was accused of doing.
- (c) Plea was involuntary based on counsel's ineffective assistance.

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

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

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

- (a) the specific nature thereof:
 - i. _____
 - ii. _____

- iii. _____
- iv. _____

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

NO

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

(a) which grounds have been presented:

- i. _____
- ii. _____

- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) I had no knowledge of the errors made in my case.
- (b) My lawyer never informed me of anything I could do.
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Daniel Jordan Florence County Public Defender Office
180 N. Tryby Street, MSC-N Florence, S.C. 29501
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Plea Arraignment

- ii. _____

 iii. _____

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

To get my case reversed and remanded and any other relief the court sees fit.

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

No

STATE OF SOUTH CAROLINA)

County of Florence)

VERIFICATION

FILED
 2015 APR 13 PM 3:09
 CONNIE REEL-SHEPARD
 CLERK OF COURT
 FLORENCE COUNTY, SC

I, Michael being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Michael Maddox

SWORN to and subscribed before me this 9th
 day of April, 2015.

Emilia Hark (L.S.)
 Notary Public

My Commission Expires: 4-27-2016

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

I, Michael, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Michael Maddox
Applicant

SWORN or affirmed to and subscribed before me this

9th day of April, 2015.

Evelyn Hodge
Notary Public

My Commission Expires: 4-27-2016

2015 APR 13 PM 3:09
CONNIE REEL-SHEPARD
CCJP & GS
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Michael D. Maddox, #360685,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

2014-CP-21-1087

**RETURN AND PARTIAL
MOTION TO DISMISS**

In response to the post-conviction relief application filed on April 13, 2015, the Respondent would show this Court:

I.

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the October 2013 term of the Florence County Grand Jury for one (1) count of Criminal Sexual Conduct with A Minor, 1st Degree (2013-GS-21-01327). Daniel Jordan, Esquire, represented him. Applicant pled guilty as indicted on July 18, 2014 and was sentenced by the Honorable Michael D. Nettles to twenty-five (25) years. Applicant did not appeal his conviction or sentence.

II.

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

1. "Ineffective assistance of counsel (6th Amendment)"
 - a. "Counsel failed to file proper motions"
 - b. "Counsel also failed to investigate the facts and laws of my case"

2. "Sufficiency of Indictment, Subject of Matter (sic) Jurisdiction (14th & 15th Amendments)"
 - a. "State's indictment is insufficient because the statutes of the indictment doesn't fit (sic) with what I was accused of doing"
3. "Involuntary Guilty Plea (6th Amendment)"
 - a. "Plea was involuntary based on counsel's ineffective assistance."

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

III.

Respondent submits that Applicant's claim of ineffective assistance of trial counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

In evaluating allegations of ineffective assistance of trial counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation

within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, Counsel's deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

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

IV.

The Applicant has claimed that the trial court lacked subject matter jurisdiction due to defects in his indictment. Respondent submits that this allegation is wholly without merit. Defects in the indictment do not affect subject matter jurisdiction. *See* State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). *See also* S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. *See* Gentry, 363 S.C. 93, 610 S.E.2d 494; Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

In post-conviction relief, an applicant wishing to raise challenges to the sufficiency of an indictment must do so in the context of ineffective assistance of counsel, basically alleging that

his trial counsel failed to properly move to quash the indictment in accordance with S.C. Code Ann. § 17-19-90. A claim of this nature is subject to the procedural bars in the Uniform Post-Conviction Procedure Act – notably the statute of limitations and successiveness. *See* S.C. Code §§ 17-27-45, 17-25-90.

An applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. *See Brown v. State*, 343 S.C. 342, 540 S.E.2d 846 (2001), *overruled in part by Gentry*, 610 S.E.2d 494. However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” *Gentry*, 610 S.E.2d 494; *see also* S.C. Const. Art. V, § 7. Therefore, the Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Respondent contends that Applicant's conviction involved a criminal charge in General Sessions Court, and thus asserts that the circuit court had proper subject matter jurisdiction. The Respondent moves for summary dismissal pursuant to South Carolina Code § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that this allegation should be dismissed as a matter of law.

V.

Applicant further claims his plea was not entered knowingly or voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the Applicant had a full understanding of the consequences of his plea and the charges against him. *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709 (1969); *Dover v. State*, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *Harris v. Leeke*, 282 S.C. 131, 318 S.E.2d 360 (1984).

Respondent submits that the transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, [an Applicant's] right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621 (1977). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975) *overruled on other grounds by* U.S. v. Whitley, 759 F.2d 327 (4th Cir. 1985). The Applicant has presented no reasons to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

VI.

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

VII.

WHEREFORE, Respondent requests an evidentiary hearing solely for the purpose of determining whether Applicant's trial counsel was ineffective.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA VALENZUELA
Senior Assistant Deputy Attorney General

LINDSEY A. MCCALLISTER
Assistant Attorney General

By: 

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11/01/16, 2016

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	
	)	
	)	2014-CP-21-1087
MICHAEL D. MADDOX, #360685,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

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

Mr. Jonathan D. Waller, Esquire
Giese Law Firm
1315 Blanding Street
Columbia, SC 29201

DATED this 31st day of October, 2016.



 Mallory Morris, Legal Assistant
 For Respondent

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2015-CP-21-01087
	)	
Michael D. Maddox,	)	
	)	
Applicant,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

April 6, 2018
 Florence, South Carolina

B E F O R E:

The Honorable George M. McFaddin, Judge

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

Jonathan Waller, Esquire
 Attorney for the Applicant

Lindsey McCallister, Esquire
 Attorney for the Respondent

Krystal J. Smith
 Circuit Court Reporter

1	<u>I N D E X</u>	
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E X H I B I T S

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

COURT REPORTER LEGEND

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

1 APRIL 6, 2018

2 (WHEREUPON, the proceedings began at 12:10 p.m. The
3 applicant was present, along with his counsel of
4 record.)

5 THE COURT: Yes, ma'am.

6 MS. MCCALLISTER: May it please the Court, Your Honor.
7 This is Michael Maddox versus the State of South Carolina,
8 2014-CP-21-1087.

9 Your Honor, Mr. Maddox was indicted in October of 2013
10 by the Florence County Grand Jury for one count of criminal
11 sexual conduct with a minor in the first degree. He was
12 represented on that charge by Daniel Jordan.

13 He pleaded guilty as indicted on July 18th, 2014, and was
14 sentenced by Judge Nettles to a term of 25 years. He did not
15 appeal his conviction or his sentence.

16 Your Honor, he did timely file this application for
17 post-conviction relief on December 13th, 2015, and Mr.
18 Jonathan Waller has been appointed to represent him in this
19 matter. Both Mr. Waller and Mr. Maddox are present in the
20 courtroom today.

21 Your Honor, when the State filed its return, they also
22 filed a partial motion to dismiss. So I would ask Mr. Waller
23 to please put the allegations on the record and then the
24 State may renew its motion depending on what he's alleging
25 today.

1 THE COURT: All right, ma'am.

2 MS. MCCALLISTER: Thank you, Your Honor.

3 THE COURT: Mr. Waller?

4 MR. WALLER: Your Honor, the allegations made by Mr.
5 Maddox are those of ineffective assistance of counsel and
6 involuntary guilty plea. He did in his initial application
7 file an allegation regarding the subject matter jurisdiction.

8 Your Honor, obviously, General Sessions Court has
9 subject matter jurisdiction to hear criminal matters. So we
10 will not be going forward on that issue, but that's the
11 State's motion to dismiss.

12 MS. MCCALLISTER: It is, Your Honor.

13 THE COURT: All right. What are your other issues, sir?

14 MR. WALLER: Your Honor, the involuntary guilty plea
15 based on improper advice of counsel and failure to
16 investigate the facts and circumstances surrounding the
17 allegations.

18 THE COURT: All right, sir. I'm ready.

19 MR. WALLER: I would call Michael Maddox.

20 THE CLERK: Yes, sir. Raise your right hand as much as
21 you can.

22 Do you swear or affirm that the testimony you give will
23 be the truth, the whole truth, and nothing but the truth, so
24 help you God?

25 THE APPLICANT: Yes, ma'am.

MICHAEL D. MADDOX - DIRECT BY MR. WALLER

1 THE COURT: All right, sir. Whenever you're ready.

2 MR. WALLER: May it please the Court, Your Honor.

3 MICHAEL MADDOX, being first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. WALLER:

7 Q: Good afternoon, Mr. Maddox. How are you today?

8 A: I'm all right. How about you?

9 Q: I'm doing well. Thank you for asking.

10 All right. Mr. Maddox, you were -- what were you
11 arrested for?

12 A: Criminal sexual conduct, first degree, with a minor.

13 Q: Okay. And who was your attorney?

14 A: My attorney was Daniel Jordan.

15 Q: All right. And how did he come to represent you?

16 A: He came to me as my public defender.

17 Q: Okay. So he was appointed as your public defender?

18 A: Yes, sir.

19 Q: All right. When you and Mr. Jordan had a chance to
20 meet, what did y'all discuss?

21 A: We discussed not much of really anything but what I was
22 facing, such as time wise.

23 Q: Okay. So you understood that you were facing a minimum
24 of 25 years?

25 A: Not then.

MICHAEL D. MADDOX - DIRECT BY MR. WALLER

1 Q: Okay. When did you become aware of that?

2 A: I didn't become aware that I was facing 25 years until I
3 entered the courtroom that day of my sentence.

4 Q: Okay. You were arrested and indicted for criminal
5 sexual conduct with a minor in the first degree. Did you and
6 Mr. Jordan have a chance to discuss the penalties of those --
7 of that indictment and that warrant?

8 A: Yes, we had a chance to discuss that.

9 Q: Okay. Why did you -- why did you not think that the 25
10 -- the minimum of 25 years up to life was what you were
11 facing?

12 A: Because me and Mr. Daniel Jordan -- no, Mr. Jordan came
13 and spoke to me. He spoke to me of dropping the charges down
14 to a second degree with a minor facing a minimum of 10.

15 Q: Okay. I want to talk for a little bit about the actual
16 allegations. Did you and Mr. Jordan have a chance to discuss
17 the actual allegations?

18 A: Of what? Of what are you pertaining?

19 Q: What the State alleged took place.

20 A: Rephrase the question?

21 Q: Did you and Mr. Jordan talk about what the State said
22 that you did?

23 A: Oh, yes, sir.

24 Q: Okay. What did y'all talk about?

25 A: We talked about pretty much of how 25 was pretty much

MICHAEL D. MADDOX - DIRECT BY MR. WALLER

1 what I was looking at, but he was going to talk to the
2 solicitor and get it dropped to 10, speaking of second degree
3 with a minor.

4 Q: All right. Let me ask you this way. The allegations
5 were that you sexually assaulted your niece?

6 A: Yes.

7 Q: Is that correct?

8 A: Yes, sir.

9 Q: Who was, I believe, four at the time?

10 A: Yes, sir.

11 Q: Okay. Did you and Mr. Jordan discuss the time period
12 that the State said this took place?

13 A: What time period?

14 Q: The date it happened? Did y'all discuss what you say
15 happened that day?

16 A: Oh, yes. Yes. We -- he --

17 Q: Okay.

18 A: Yes, we discussed that.

19 Q: All right. How old were you at the time?

20 A: I was 16.

21 Q: Okay. When -- how close was your birthday in relation
22 to this?

23 A: Two days after my birthday.

24 Q: Okay. So it was two days after your birthday? Okay.

25 Did you and Mr. Jordan discuss any statements given by the

MICHAEL D. MADDOX - DIRECT BY MR. WALLER

1 child in this case?

2 A: Yes.

3 Q: Okay.

4 A: He was saying there was a disk, a CD disk, of the
5 statement of the child that said -- but I never heard the
6 disk.

7 Q: Okay. Did you -- you didn't get to actually watch the
8 video; is that right?

9 A: No, sir.

10 Q: And did you see any -- any portion, like a transcript or
11 anything like that?

12 A: No, sir.

13 Q: Okay. Did you give Mr. Jordan any information about a
14 defense you might have had?

15 A: Yes. I told him I was having problems with my sister at
16 the time.

17 Q: Okay. Your sister being the mother of the child?

18 A: The mother of the child.

19 Q: Okay. What did you tell him about the problems between
20 you and your sister?

21 A: That we were currently arguing and had problems prior to
22 the situation.

23 Q: Okay. So you told Mr. Jordan that your sister made it
24 up because she was mad at you; is that right?

25 A: Yes, ma'am. Yes, sir.

MICHAEL D. MADDOX - DIRECT BY MR. WALLER

1 Q: Okay. Did you also tell Mr. Jordan anything about an
2 alibi you might have had at the time?

3 A: I was at school when the child stated what happened and
4 there was a time frame during that whole period.

5 Q: Okay. So you were 16. So you would have been in high
6 school still?

7 A: I was in the alternative school.

8 Q: Okay. And did you ride the bus? How did you get to
9 school?

10 A: Yes, I rode the bus at the time.

11 Q: Okay. Did you ever tell Mr. Jordan that you would've
12 been on the bus or waiting for the bus at the time the child
13 alleged that the incident took place?

14 A: He never asked. I never stated that.

15 Q: Okay. What else did y'all discuss?

16 A: That was pretty much it. We discussed would happened,
17 what took place, what was I doing. That's pretty much --
18 that was all that took place and then he stated I would be
19 going to court shortly.

20 Q: Okay. When you -- when he said you would be going to
21 court, what did you think that meant?

22 A: That I was going up to take the 10 that we discussed.

23 Q: Okay. Did you ever discuss going to trial with Mr.
24 Jordan?

25 A: It was briefly stated.

MICHAEL D. MADDOX - DIRECT BY MR. WALLER

1 Q: Okay. When you got into court and you found out that
2 you were no longer able to plead to 10 -- a 10-year sentence,
3 did y'all discuss going to trial at that point?

4 A: Yes. We discussed. I asked was we going to trial. He
5 stated that it was not in my best interest to take it to
6 trial due to the statement that was against me.

7 Q: Okay.

8 A: That I was looking at life.

9 Q: Okay. Why did you ultimately end up pleading guilty or
10 pleading under North Carolina v. Alford?

11 A: Because I did not want to do a life sentence for
12 something I did not do.

13 Q: Okay.

14 A: And by stating to the Alford plea, saying that it was
15 due to evidence that he stated was against me, I did not see
16 it in my best interest to take it to trial.

17 Q: Okay. Mr. Maddox, what do you think Mr. Jordan did
18 wrong in your case?

19 A: He did not aware me of the fact that I could have been
20 -- I was a juvenile, stating that I was under age at the time
21 and not consensual to take a plea.

22 Q: Okay. Is that the only thing you think he did wrong?

23 A: Pretty much. I was not aware of anything at the time.
24 I feel that he took advantage of the situation, that I was
25 not knowledgeable to the law of the system.

MICHAEL D. MADDOX - DIRECT BY MR. WALLER

1 Q: Okay. Did you -- after the 10-year offer was rejected,
2 did you -- you've testified that you thought you were going
3 to trial or you asked him if you were going to trial; is that
4 right?

5 A: (No verbal response.)

6 Q: Is that a yes?

7 A: Yes, sir.

8 Q: Okay. Did you think he was prepared to go to trial?

9 A: No, sir.

10 Q: Did y'all have a trial date or anything at that point?

11 A: No, sir.

12 Q: Okay. Ultimately, you ended up pleading guilty to the
13 negotiated 25 or -- excuse me -- pleading under North
14 Carolina v. Alford. Why did you make that decision?

15 A: I felt it was safer than taking it to trial at the time.

16 Q: Okay. Why did you think it would be safer?

17 A: Because I was under a pretense of doing life behind
18 bars.

19 Q: Okay. All right. Mr. Maddox, I've asked you all the
20 questions that I have. Is there anything you think that I've
21 left out that the judge needs to be aware of about Mr.
22 Jordan's representation of you?

23 A: No, sir.

24 MR. WALLER: Please answer any questions Ms. McCallister
25 has.

MICHAEL D. MADDOX - CROSS BY MS. MCCALLISTER

1 THE COURT: All right, ma'am.

2 CROSS-EXAMINATION

3 BY MS. MCCALLISTER:

4 Q: Mr. Maddox, do you remember the day of your plea when
5 you went in front of the judge and the judge asked you some
6 questions about what y'all were doing there?

7 A: Yes, ma'am.

8 Q: Okay. Do you remember the judge telling you that you
9 were going to get 25 years if he accepted your plea?

10 A: Yes, ma'am.

11 Q: Okay. And he told you pretty specifically you don't get
12 a day less, that's what you get, 25 years. Do you agree with
13 me on that?

14 A: Yes, ma'am.

15 Q: And you told him you understood that?

16 A: Yes, ma'am.

17 Q: And you told him you wanted to take this plea of 25
18 years?

19 A: Yes, ma'am.

20 Q: Okay.

21 MS. MCCALLISTER: I think that's all the questions I
22 have, Your Honor.

23 THE COURT: Mr. Waller?

24 MR. WALLER: Nothing further, Your Honor.

25 THE COURT: Thank you, Mr. -- thank you, sir.

DANIEL JORDAN - DIRECT BY MS. MCCALLISTER

1 MR. WALLER: Nothing further from the applicant, Your
2 Honor.

3 THE COURT: All right. Ms. McCallister?

4 MS. MCCALLISTER: Your Honor, the State calls Daniel
5 Jordan.

6 THE CLERK: Do you swear or affirm that the testimony
7 you give will be the truth, the whole truth, and nothing but
8 the truth, so help you God?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: Proceed, ma'am, when you're ready.

11 DANIEL JORDAN, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MCCALLISTER:

15 Q: Mr. Jordan, do you recall your representation of Mr.
16 Maddox in this case?

17 A: Yes, ma'am.

18 Q: Okay. And he pleaded -- he ended up pleading guilty --
19 pleading guilty in July of 2014. Do you recall approximately
20 how long before then you were appointed to represent him?

21 A: Can I refer to my --

22 Q: Sure.

23 A: -- file? I'm not sure I know, but the application for
24 the public defender went through toward the end of May of
25 2013. I would assume that it was assigned to me either in

DANIEL JORDAN - DIRECT BY MS. MCCALLISTER

1 June or July of 2013.

2 Q: Okay. So approximately a year time frame? Is that
3 fair?

4 A: Yes, ma'am.

5 Q: Okay. And can you briefly sort of summarize what the
6 evidence was against Mr. Maddox in this case?

7 A: Well, I mean he's -- he's pretty well stated what the --
8 what the allegations were, that he sexually assaulted his
9 four-year-old niece. The evidence against him were
10 statements that were given to law enforcement by the mother
11 of the victim here. There were medical records from the Lake
12 City Community Hospital, and then there's the report of the
13 -- from the Care House, who did the forensic interview of the
14 victim here.

15 Q: Okay. And is it your understanding from what you were
16 given in discovery that the actual physical examination of
17 the -- of the minor child showed that there was -- there had
18 been sexual abuse; is that right?

19 A: From -- from my memory, yes, ma'am.

20 Q: Okay. And can you explain the time frame on this? From
21 the time that the child reported the allegations until the
22 time she was actually examined, how -- can you give an
23 approximation? Was it, like, the same day? Was it years
24 later?

25 A: No. It was within days.

DANIEL JORDAN - DIRECT BY MS. MCCALLISTER

1 Q: Okay.

2 A: If not the same day.

3 Q: Okay. And did you discuss all of that evidence with Mr.
4 Maddox?

5 A: Oh, yes, ma'am.

6 Q: Okay. And was there some sort of video or audio
7 recording of the child's statement?

8 A: Yes, there was.

9 Q: Do you recall if Mr. Maddox was able to -- was it a
10 video?

11 A: It was a video.

12 Q: Okay.

13 A: Yes, ma'am.

14 Q: Was Mr. Maddox able to view that video?

15 A: No, ma'am. The way that my representation worked was --
16 I mean initially when he was arrested, he was taken to the
17 Department of Juvenile Justice due to his age. So there was
18 a break in time where he was not here in Florence County.

19 Once he was back, we really started getting into sort of
20 the meat and bones of it. He was provided with his
21 discovery, which consisted of everything outside of that
22 video. And he -- I remember him specifically saying that he
23 didn't necessarily need to see the video. That, you know, he
24 had the -- a copy of the forensic report, things of that
25 nature.

DANIEL JORDAN - DIRECT BY MS. MCCALLISTER

1 Q: Okay. And the forensic report had some kind of summary
2 at least of what the video -- of what was said on the video
3 and what the video showed?

4 A: Yeah. I mean the forensic report basically goes
5 through, you know, what happened in the video, the
6 disclosures that were made by the child, you know, the
7 identification of the parts of the body.

8 Q: Okay.

9 A: Those sorts of things.

10 Q: And is it fair to say that the child identified him as
11 the perpetrator?

12 A: Multiple times.

13 Q: Okay. And he was made aware of that?

14 A: Yes, ma'am.

15 Q: And he was given an opportunity to watch the video but
16 chose not to do that?

17 A: Yes, ma'am.

18 Q: Okay. Did he ever give you any kind of alibi
19 information or any sort of defense to these charges?

20 A: He did, in fact, tell me that he was in school out at --
21 I think it was Rush Academy, the alternative school. The
22 issue that we had there was I don't recall there being any
23 set specific time of day at which this allegedly happened.

24 Q: Okay. And the location of the incident where this --
25 where the incident was alleged to have taken place was at Mr.

DANIEL JORDAN - DIRECT BY MS. MCCALLISTER

1 Maddox's home; is that correct?

2 A: It was -- I believe so. Yes, ma'am. It was either at
3 his home or another relative's home.

4 Q: Okay. And when you -- when you were discussing with Mr.
5 Maddox what his options are in this case, whether he wanted
6 to agree to plead guilty or go to trial, did you explain to
7 him the sentence he was facing?

8 A: Yes, ma'am. My notes reflect that I -- that latest on
9 July 10th of 2014, I met with him at the Florence County
10 Detention Center, reviewed the evidence in this case,
11 reviewed the elements of criminal sexual conduct with a minor
12 under the age of 11, first degree, reviewed the elements of
13 criminal sexual conduct with a minor, second, as well as the
14 penalties for both. At that point in time, he indicated to
15 me that he would like for me to try to work out a plea deal
16 to a criminal sexual conduct, second degree, charge, if
17 possible, that he did not want a trial.

18 Q: And did you undertake those negotiations to try to get
19 the charge reduced?

20 A: I did.

21 Q: Okay. And were those negotiations successful?

22 A: They were not.

23 Q: So the State never offered to reduce the charge?

24 A: No.

25 Q: So there was never an official offer to plead to

DANIEL JORDAN - DIRECT BY MS. MCCALLISTER

1 something like 10 years?

2 A: No, ma'am.

3 Q: And you never conveyed anything like that to him?

4 A: No.

5 Q: Okay. So the only offer that you ever conveyed to him
6 was -- was pleading guilty as indicted to the minimum
7 sentence of 25 years?

8 A: Yes, ma'am. He asked me about lesser charges, which is
9 why I reviewed the elements of the second-degree charge, as
10 well as the penalty for that. He indicated that he wanted to
11 plea and would prefer to plead to a second-degree charge
12 because it carried less time.

13 Q: Okay. And when you actually went to accomplish the
14 guilty plea, did you explain to him that it was going to be
15 to the CSC first and that it was going to be the 25 years?

16 A: Oh, yes, ma'am.

17 Q: And do you have any reason to believe that he didn't
18 understand that when he went in that courtroom?

19 A: No, ma'am. It was -- you know, we went over it
20 thoroughly that morning. He signed the sentencing sheet. It
21 was clearly marked and discussed that this was a negotiated
22 sentence. He was pleading to the first degree. We talked
23 about the ancillary consequences or potential consequences
24 for the plea and the fact that it was a mandatory minimum
25 that he would do day for day.

DANIEL JORDAN - DIRECT BY MS. MCCALLISTER

1 Q: Okay.

2 A: During that time, we calculated how much time he had
3 been incarcerated on this charge, as well as went over a few
4 other things to ensure that he would get credit for that
5 time.

6 Q: Okay. And whose decision was it ultimately to enter the
7 guilty plea?

8 A: His.

9 MS. MCCALLISTER: Thank you, Your Honor. That's all I
10 have.

11 THE COURT: Mr. Waller?

12 MR. WALLER: Just briefly, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. WALLER:

15 Q: Mr. Jordan -- Mr. Jordan, Mr. Maddox testified that he
16 turned 16 two days before the incident took place?

17 A: Yes.

18 Q: Okay. Was there a -- was the incident date -- was that
19 pretty firm or was it a situation where there was some
20 uncertainty about it because of the age of the child at
21 disclosure?

22 A: As far as I remember, you know, it was relatively firm.
23 Yeah. You know, I don't remember there being any discussion
24 about it wavering.

25 Q: Okay. So did you ever look at whether there was a

DANIEL JORDAN - CROSS BY MR. WALLER

1 possibility to keep him down in Family Court?

2 A: Well, like I said, initially, he was sent to the
3 Department of Juvenile Justice. And I know that at one point
4 in time early on, once he was returned from there, we did
5 talk about the fact that because of the nature of the crime,
6 the heinousness of the crime, the State has chosen to process
7 this in civil court.

8 Q: Okay.

9 A: Circuit Court rather. I'm sorry.

10 Q: Yes, sir. Did you and Mr. Maddox discuss he and his
11 sister's relationship?

12 A: We did.

13 Q: Okay. What did y'all discuss?

14 A: I mean pretty much exactly what he testified to. That
15 he and his sister had had a falling out where there was some
16 animosity between them and that, you know, he felt -- or
17 basically, his version of events were that she was just
18 making this up.

19 Q: Okay.

20 A: But -- go ahead.

21 Q: Well, I was going to say did you conduct any further
22 investigation into that?

23 A: I know we did. You know, obviously, you know, from what
24 I remember, his sister said, no, I mean I certainly wouldn't
25 make something like this up. And based on that and

DANIEL JORDAN - CROSS BY MR. WALLER

1 counseling him as his attorney, I informed him that I didn't
2 think she was going to testify or corroborate his testimony
3 in that regard.

4 Q: Okay. Did you have any information about any mental
5 health issues that Mr. Maddox may have been treated for?

6 MS. MCCALLISTER: Your Honor --

7 A: I don't believe so.

8 MS. MCCALLISTER: I'm going to object. There's no -- I
9 don't see that in the allegations anywhere or how that ties
10 into these allegations.

11 MR. WALLER: Your Honor, I'm not making an allegation of
12 it. I'm asking about his investigation, which was one of the
13 allegations.

14 THE COURT: Well, I think it goes to something that the
15 State should have been put on notice about. So I'll sustain
16 that objection.

17 MR. WALLER: Thank you. Nothing further, Mr. Jordan.

18 MS. MCCALLISTER: I have nothing further.

19 THE COURT: You may step down, sir. Thank you.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Anything else, Ms. McCallister?

22 MS. MCCALLISTER: I'm sorry?

23 THE COURT: Anybody else?

24 MS. MCCALLISTER: No. That's the State's case, Your
25 Honor.

1 THE COURT: All right. Mr. Waller, would you like to
2 tell me now or do you need a minute?

3 MR. WALLER: Your Honor, I believe the application is
4 clear as to our allegations. The testimony was -- is what it
5 is, Your Honor.

6 THE COURT: Thank you, sir.

7 Ms. McCallister?

8 MS. MCCALLISTER: No, Your Honor. I think the
9 transcript is very clear that he understood exactly what he
10 was pleading to and I think the testimony is pretty clear
11 that he understood that and he admitted that he did, that he
12 told the judge that he did.

13 And I think Mr. Jordan's testimony has been clear that
14 all of these issues that Mr. Maddox raised were discussed and
15 investigated and he gave the reasons why they weren't pursued
16 and why he decided to enter the guilty plea.

17 And so we would ask that that application is denied,
18 Your Honor.

19 RULING

20 THE COURT: I did read the transcript regarding the
21 plea. And with great respect to Mr. Waller, I will grant the
22 relief sought by the State, meaning that I don't grant relief
23 sought by Mr. Maddox.

24 Thank y'all.

25 MR. WALLER: Thank you, Your Honor.

1 MS. MCCALLISTER: Thank you.

2 THE COURT: With reliance or reference made to Section 3
3 of the return of the State and terms of standards of review
4 and so forth.

5 (WHEREUPON, the proceedings ended at 12:35 p.m.)

6

7 --- END REQUESTED TRANSCRIPT ---

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
IN THE COURT OF COMMON PLEAS

FILED

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP2101087

Michael D Maddox 2019 MAR -8 AM 10:00 South Carolina State Of

PLAINTIFF(S)

DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

3/8/2019

Date

For Clerk of Court Office Use Only

This judgment was entered on March 7, 2019, and a copy mailed first class or placed in the appropriate attorney's box on March 8, 2019, to attorneys of record or to parties (when appearing pro se) as follows:

CERTIFIED: A TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.
Doris Poulos O'Hara

Jonathan D Waller 1116 Blanding Street Suite 2B
Columbia, SC 29201

Samuel Leonard Key Rembert C. Dennis Building 1000
Assembly Street Columbia, SC 29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Doris P. O'Hara

Court Reporter

Doris Poulos O'Hara - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Michael D. Maddox, #360685,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

C.A. No. 2015-CP-21-1087

ORDER OF DISMISSAL

2019 MAR -7 AM 11:16
JAMES POULOS, CLERK
C.C.P. & G.S.
FLORENCE COUNTY, SC

FILED

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Michael D. Maddox (Applicant) on April 13, 2015. Respondent made its Return on November 1, 2016. An evidentiary hearing into the matter was convened on April 6, 2018, at the Florence County Courthouse before the undersigned. Jonathan Waller, Esquire, represented Applicant. Lindsey A. McCallister, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Daniel Jordan (Counsel), Esquire, Applicant's plea counsel, was also called to testify. This Court also had before it a copy of the records of the Florence County Clerk of Court, records from the South Carolina Department of Corrections, the application, Respondent's Return, and the plea transcript.

PROCEDURAL HISTORY

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the October 2013 term of the Florence County Grand Jury for one count of first-degree criminal sexual

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James Poulos
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

conduct (CSC) with a minor (2013-GS-21-01327). The charges arose from the sexual abuse of Applicant's four-year-old niece. Applicant was babysitting when his sister, the victim's mother, called the house to check on her daughter. Tr. p. 6. The child reported Applicant had kissed her on the lips, so the mother immediately came to pick her up. Tr. pp. 6-7. When asked if anything else had happened, the child described oral sex and vaginal penetration by Applicant. Tr. p. 7. The victim's mother took her immediately to the hospital and notified law enforcement. Tr. pp. 7-8. The victim had a forensic interview and physical exam, and the physical exam showed evidence of oral and vaginal penetration. Tr. p. 8. Daniel Jordan, Esquire, represented him. Applicant pleaded guilty as indicted on July 18, 2014, and was sentenced by the Honorable Michael D. Nettles to twenty-five years' imprisonment. Applicant did not appeal his conviction or sentence.

ALLEGATIONS

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

1. "Ineffective assistance of counsel (6th Amendment)"
 - a. "Counsel failed to file proper motions"
 - b. "Counsel also failed to investigate the facts and laws of my case"
2. "Sufficiency of Indictment, Subject of Matter (sic) Jurisdiction (14th & 15th Amendments)"
 - a. "State's indictment is insufficient because the statutes of the indictment doesn't fit (sic) with what I was accused of doing"
3. "Involuntary Guilty Plea (6th Amendment)"
 - a. "Plea was involuntary based on counsel's ineffective assistance."

At the hearing, PCR counsel indicated Applicant alleges his guilty plea was involuntary due to ineffective assistance of counsel. Specifically, Applicant contends Counsel failed to investigate and gave Applicant improper advice. Counsel for Applicant indicated he did not wish to proceed

on his allegation regarding a lack of subject-matter jurisdiction and an insufficient indictment. Therefore, this Court finds those allegations are waived and abandoned. Those allegations are hereby denied and dismissed with prejudice.

SUMMARY OF TESTIMONY

Applicant testified he was arrested on this CSC charge, and Counsel was appointed to represent him. Applicant testified he did not spend much time with Counsel discussing the case, but Counsel told him he would get the charge dropped to second-degree CSC, which carried a minimum of only ten years. According to Applicant, when he went to put the plea on the record, he thought he was pleading to second-degree CSC for ten years. Applicant testified the first time he heard of a twenty-five year sentence was on the day of the plea. However, on cross-examination, Applicant acknowledged the judge informed him very clearly of the twenty-five year sentence, and Applicant indicated to the judge he understood. See Tr. p. 10.

Applicant further testified he discussed his version of events with Counsel. Applicant also testified he told Counsel there were problems between him and his sister (the mother of the victim) at the time, and his sister had made up the allegation. According to Applicant, he was at school at the time of the incident and had ridden the school bus that day, but Applicant testified Counsel never asked about his whereabouts, and Applicant did not give this information to Counsel. Applicant testified he also did not review the video of the forensic interview, nor was he provided a transcript.

Finally, Applicant testified he and Counsel briefly discussed the possibility of a trial, but Counsel told him a trial was not in his best interest because he could possibly receive a life

sentence. Applicant testified he did not want to risk a life sentence for something he did not do, and he felt Counsel was not prepared for trial. Applicant acknowledged no trial date had been set.

Counsel testified he was appointed to represent Applicant in May 2013. Counsel testified he and Applicant discussed the evidence in this case, which consisted of the mother's statements to law enforcement, the victim's hospital records, and the forensic interview and examination of the victim. According to Counsel, once Applicant was brought back to Florence County from DJJ, Counsel offered to play the video of the forensic examination, but Applicant did not want to see it. Counsel testified Applicant had a copy of the report, and Counsel summarized for him the contents of the video and the disclosures made by the victim.

Counsel testified he and Applicant discussed an alibi defense, and Applicant told Counsel he was at school. However, while the day of the incident was certain, the time of day was not. Further, Counsel testified he spoke to the sister about Applicant's claim of problems between the two of them, and the sister insisted she would not make up an allegation like this. Counsel testified he did not think she would corroborate Applicant's claim at trial.

Counsel testified he met with Applicant on July 10, 2014, at the Florence County Detention Center, and he and Applicant reviewed the evidence, the elements of first- and second-degree CSC, and the possible penalties. According to Counsel, Applicant asked him to try to negotiate a plea agreement for second-degree CSC with a ten-year sentence, but Counsel was not successful, and the State never agreed to that offer. Counsel further testified the nature of the plea – negotiated for a twenty-five year sentence – was clearly marked on the sentencing sheet, and he discussed with Applicant the other consequences of the conviction, such as day-for-day service of time and the



mandatory minimum sentence. Counsel also testified he and Applicant calculated the time-served credit for which Applicant was eligible. Counsel testified it was Applicant's decision to enter into the guilty plea agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the PCR hearing. This Court has observed the witnesses presented at the hearing, judged their credibility, and weighed their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

Applicant alleges he received ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland, 466 U.S. at 688 (1984)). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. When there has been a guilty plea, the applicant must prove counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

This Court finds Applicant has failed to prove Counsel's performance was deficient in any way. Counsel met with Applicant and reviewed with him the elements of the crime charged, possible punishments, the evidence and discovery in the case, and Applicant's version of the facts.

1. Failure to investigate

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012) (reversed on other grounds by Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014)). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006), abrogated on other grounds by Smalls v. State,

422 S.C. 174, 810 S.E.2d 836 (2018) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). To establish counsel failed to adequately prepare his case, Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel more fully prepared. See Palacio v. State, 333 S.C. 506, 513, 511 S.E.2d 62, 66 (1999) (finding trial counsel not ineffective for failing to timely request discovery because the contents of the documents were not presented at the PCR hearing); Moorehead, 329 S.C. at 334, 496 S.E.2d at 417 (holding trial counsel's failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result); Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997) (denying relief where applicant failed to present witnesses or specific testimony establishing applicant would have had a defense with additional time to prepare for trial); Skeen v. State, 325 S.C. 210, 217, 481 S.E.2d 129, 133 (1997) (finding applicant was not entitled to relief where no evidence was presented at the PCR hearing to show how additional preparation would have had any possible effect on the result at trial).

Here, Applicant has not presented any evidence or defense theory he was unable to present at trial due to Counsel's alleged ineffective assistance. See, e.g., Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) ("This Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice. . . ."). The Court finds credible Counsel's assertion Counsel reviewed the videotaped statement and offered to play the video for Applicant, but Applicant did not want to see it. Additionally, this Court finds credible Counsel's testimony Applicant's "alibi" was too vague, and in any event, Applicant testified he never asked

Counsel to pursue this defense. The Court finds Counsel investigated the defense Applicant suggested, i.e. a false allegation by Applicant's sister, and it was not corroborated.

2. Improper advice

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, an applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63 (1977). Statements made during a guilty plea should be considered conclusive, unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975) overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir. 1985).

As noted above, this Court finds Counsel reviewed Applicant's constitutional rights, the State's evidence, potential defenses, and possible penalties with Applicant prior to the plea. Further, the transcript reflects the plea judge engaged in a detailed recitation of Applicant's constitutional rights, including the right to a jury trial, during the plea colloquy. Tr. p. 9. Further, the plea court clearly informed Applicant the sentence was twenty-five years, "no more and no less." Tr. p. 10. Applicant indicated he wanted to plead guilty, and no one had pressured or threatened him. Tr. p. 10. Applicant also clearly informed the plea court he was satisfied with Counsel's services and felt Counsel had done everything Applicant asked. Tr. pp. 10-11.

Applicant told the plea court he did not need more time to speak with Counsel to make his decision. Tr. p. 11. This Court finds no reason why Applicant should be allowed to depart from the truth of the statements he made under oath during the plea.

Accordingly, this Court finds Applicant has failed to meet his burden of proof as to deficiency or prejudice as to any of his allegations. Therefore, the application for post-conviction relief shall be denied and dismissed with prejudice.

CONCLUSION

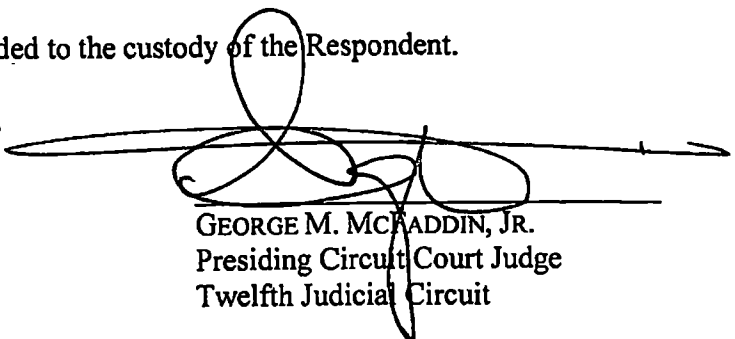
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71:1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.



IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED.

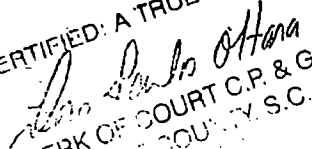
GEORGE M. McFADDIN, JR.
Presiding Circuit Court Judge
Twelfth Judicial Circuit

March 4, 2019

FILED

2019 MAR -7 AM 11:16

DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

WITNESSES

Roger Tilton Lake City Police Department

Todd Tucker

ARREST WARRANT NUMBER

2013A2120400203

ACTION OF GRAND JURY TRUE BILL

Caubrey Murphy
Foreperson of Grand Jury
Date: 10/3/13

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-21-01327

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

OCTOBER

TERM

2013

THE STATE

vs.

MICHAEL DEVONTE MADDOX

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR FIRST DEGREE**

FILED

2013 OCT -3 AM 11:18

CONNIE REEL-SHEARIN
CLERK & GS
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

At a Court of General Sessions, convened on OCTOBER 3, 2013 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- CRIMINAL SEXUAL CONDUCT WITH A MINOR

That MICHAEL DEVONTE MADDOX did in Florence County, State of South Carolina, on or about May 14, 2013, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in sexual battery with a minor who is less than eleven (11) years of age, whose date of birth is May 12, 2009, to wit: by penetrating her vagina with his penis and forcing her to perform oral sex, in violation of Section 16-3-655(A)(1), [formerly Section 16-3-655(1)], S. C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR