

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Lexington County

Honorable Brooks P. Goldsmith, Circuit Court Judge

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May 04 2020

S.C. SUPREME COURT

CANDICE R. BEASLEY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2019-001365

APPENDIX

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1 that the only portion of the statute that is
2 applicable to these facts is whether or not the
3 State has proven to you beyond a reasonable doubt
4 that the defendant has inflicted serious
5 disfigurement on the child. There's not evidence to
6 support the other definitions, and that's not
7 unusual. That statute has a broad definition. But
8 it would just be one portion of the definition.

9 So in this case for the defendant to be found
10 guilty, the State must prove beyond a reasonable
11 doubt that she was the guardian or the person with
12 whom the child has been placed in her care or
13 custody and that she has caused, beyond a reasonable
14 doubt, serious disfigurement.

15 And disfigurement is simply defined as an
16 impairment or injury to the appearance of a person.
17 It is what it says, disfigurement. So they have to
18 prove beyond a reasonable doubt that she has injured
19 the child to such an extent as to cause serious
20 disfigurement.

21 Now, there's a Section D of the statute which
22 says that this statute cannot be construed to
23 prohibit or forbid corporal punishment nor physical
24 discipline which is administered by a person or
25 someone in control of the child which does not cause

1 great bodily injury upon a the child.

2 So it excludes corporal punishment, but if the
3 punishment goes beyond -- goes to the great bodily
4 injury causing the permanent disfigurement, then it
5 becomes criminal. Understand?

6 All right. And, of course, under that
7 indictment, you will be given a verdict form to
8 consider, and it's a simple verdict form; we find
9 the defendant not guilty, if you find that the State
10 has failed to prove beyond a reasonable doubt the
11 elements we just talked about, or if you find the
12 State has proven the elements beyond a reasonable
13 doubt, you check guilty. Very simple instructions.

14 Let's turn to the second indictment which is
15 the indictment for unlawful conduct towards a child.
16 This is codified by our legislature in Section
17 63-5-70, as I said earlier. And that statute says:
18 It is unlawful for a person who has charge of or
19 custody of a child or who is the parent or guardian
20 of a child to do or cause to be done unlawfully or
21 maliciously any bodily harm to the child so that the
22 life or health of a child is in danger or likely to
23 be in danger, or place the child at unreasonable
24 risk or harm affecting the child's life, physical or
25 mental health, or safety.

1 So in order to convict the defendant, the State
2 has to prove beyond a reasonable doubt that she was
3 in charge of the child, she had custody of the
4 child, or was responsible for the welfare of the
5 child, and prove beyond a reasonable doubt that she
6 placed the child at unreasonable risk of harm
7 affecting that child's physical or mental health or
8 safety, or do something to cause -- or had done
9 something unlawfully or maliciously to cause bodily
10 harm to the child so that it -- well, that part of
11 the statute doesn't apply.

12 So it's just place the child at unreasonable
13 risk of harm affecting the child's life, physical or
14 mental health, or safety, any one of those or a
15 combination. Likewise, that verdict form will be
16 the same format, we find the defendant not guilty or
17 guilty. Those are the two statutes that we're
18 dealing with. I hope I've explained it well enough
19 that you understand.

20 You'll be asked to go to back in the jury room
21 in just a second. I'm going to ask you to not start
22 deliberating until I've asked the lawyers if I've
23 left anything out or if anything needs to be changed
24 the and we go through the evidence to make sure we
25 have it all gathered. That shouldn't take us but a

1 few minutes.

2 Once we do that, we'll send the evidence back
3 into the jury room with you, you will have the two
4 verdict forms. Your verdict, Madam Forelady, has to
5 be unanimous; all 12 of you must agree one way or
6 the other. If you have any questions while
7 deliberating, the correct procedure on that is to
8 write it out on a piece of paper -- they'll have a
9 notepad back there -- knock on the door, and the
10 bailiff will hand it to me. Sometimes they're
11 questions I can answer, sometimes I can't; depends
12 on what the question is. But if you have a
13 question, just do that and let me know.

14 It's 11:00. I'm going to let you handle
15 whether or not you want to order lunch. If you want
16 to order lunch, just knock on the door. And it
17 takes about how long to get lunch?

18 THE CLERK: About an hour and a half.

19 THE COURT: Well, we're in Lexington, it might
20 take an hour. So I'll let you sort of judge that.
21 Fair enough?

22 Now, as I said, your verdict must be unanimous,
23 all 12 must agree. Serving on jury duty is a
24 tremendous civic responsibility. When someone is
25 accused of a crime, they are not placed before a

1 dictator or a military tribunal; they come before 12
2 citizens of their community, and those citizens
3 listen to the evidence and determine what evidence
4 is the truth, you apply those true facts to the law
5 as I give it to you and you're in a position to
6 render a verdict.

7 It's a very important civil duty, but it's the
8 best system of justice I think the world has ever
9 seen. It's evolved over time and you're
10 participating in it. This is the real thing, it's
11 not TV. So I ask that you -- in your deliberations,
12 obviously, you have no friends to reward, no enemies
13 to punish.

14 You're asked to give careful deliberation to
15 the testimony that you've heard, become the judges
16 of the facts, find out what are the true facts and
17 apply it to the law as I have given it to you, and
18 then you'll be in a position to render a true and
19 just verdict.

20 The word verdict means to speak the truth, and
21 that's what we're asking you to do. The lawyers
22 have worked hard in preparing the case,
23 investigating the case. The parties have,
24 obviously, gone through a lot as this case comes
25 here. And we now turn it over to you and everybody

1 feels confident in your ability to do the job. And
2 I appreciate it and thank you in advance for doing.

3 At this time, I'm going to ask you to return to
4 the jury room. Please separate the two alternates.
5 Please do not start deliberating. It will be about
6 five minutes and I'll have everything back there for
7 you and then you may start.

8 Ma'am, if anybody needs a break, stop
9 deliberating and start when they get back. Thank
10 you very much. Everybody else remain seated.

11 (The jury exits courtroom at 10:53 AM.)

12 THE COURT: On behalf of the State, any
13 requested additions, deletions, modifications,
14 objections to the charge?

15 MS. MAYES: No, sir, Your Honor.

16 THE COURT: By the Defendant?

17 MR. HUDSON: None, Your Honor.

18 THE COURT: Thank you. Ma'am, sir, please come
19 forward and review the evidence and make sure we
20 have it accounted for and review the verdict form,
21 which you've already done. But just re-review it.

22 All right. Let the record reflect that all of
23 the evidence is accounted for, both lawyers have
24 reviewed the verdict form, and I'm going to send it
25 back to the jury.

1 The alternates have been separated; is that
2 correct, Mr. Bailiff?

3 THE BAILIFF: Yes, sir, they have.

4 THE COURT: Please give them the verdict form
5 and the evidence and tell them they may start their
6 deliberations. Thank you.

7 All right. We'll stand at ease. Mr. Hudson,
8 I've given you instructions about the defendant.

9 MR. HUDSON: Yes, sir.

10 THE COURT: Thank you.

11 (The jury begins their deliberations at 10:56
12 AM.)

13 (Trial in recess 10:46 AM - 11:29 AM.)

14 THE COURT: Mr. Hudson, I got a couple
15 questions from the jury. I want to share them with
16 you. We're waiting on Ms. Mayes.

17 MR. HUDSON: She's on the third floor, Your
18 Honor. They're doing something on the third floor,
19 so she's on her way, Your Honor.

20 May I approach?

21 THE COURT: Certainly.

22 All right. Ms. Mayes, we have a couple of
23 questions from the jury. I shared them with
24 Mr. Hudson.

25 MS. MAYES: Okay.

1 THE COURT: All right. One of the questions
2 asks: Why was DNA not done on the jump rope? My
3 response will be I cannot comment on that.

4 MS. MAYES: Okay.

5 THE COURT: As to the definition, I can say
6 serious disfigurement or I can bring them back in
7 and read it. What's your pleasure?

8 MS. MAYES: I'll leave that in the Court's
9 discretion. I don't have any preference.

10 THE COURT: Mr. Hudson?

11 MR. HUDSON: I think what they would need is to
12 hear the definition again. I mean, it's still up to
13 the Court's discretion.

14 THE COURT: All right. The Defense would like
15 for me to read it. Bring them back in, please.
16 I'll have the court reporter mark these as Court's 2
17 and 3.

18 (Court's Exhibit Nos. 2 and 3 marked for
19 identification and admitted into evidence.)

20 (The jury enters the courtroom at 11:33 AM.)

21 THE COURT: Madam forelady, I received two
22 notes. First one was: Why wasn't the jump rope
23 analyzed for DNA? I cannot comment one way or the
24 other on that.

25 Next question: Can we please get the

1 definition for great bodily injury? Certainly. The
2 statute defines great bodily injury, it says this:
3 For the purposes of this section, quote, great
4 bodily injury, unquote, means bodily injury which
5 creates a substantial risk of death or which causes
6 serious or permanent disfigurement or protracted
7 loss or impairment of the function of any bodily
8 member or organ.

9 I have ruled as a matter of law that the only
10 section of that definition that is applicable to the
11 facts in this case is that it is bodily injury which
12 causes serious disfigurement. That's the only thing
13 you're to concern yourself with, serious
14 disfigurement. Any other questions?

15 THE FOREWOMAN: No, sir.

16 THE COURT: Thank you very much.

17 (The jury returns to the jury room to continue
18 deliberations at 11:35 AM.)

19 THE COURT: Any objection by the State to that?

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

21 THE COURT: By the Defendant?

22 MR. HUDSON: None from the Defendant, Your
23 Honor.

24 THE COURT: All right. We'll continue to stand
25 at ease.

1 (Trial in recess 11:35 AM - 12:00 PM.)

2 THE COURT: Ms. Mayes, are you ready to receive
3 this verdict on behalf of the State?

4 MS. MAYES: Yes, sir. I apologize, Your Honor.
5 We were on the third floor of the courtroom.

6 THE COURT: You're just doing your job. You
7 don't need to apologize.

8 Mr. Hudson, are you ready to receive the
9 verdict on behalf of the Defendant?

10 MR. HUDSON: Yes, Your Honor.

11 THE COURT: Let me remind everyone in the
12 courtroom, obviously this is a public courtroom and
13 I commend each and every one of you in your behavior
14 during the trial of this case. You've been
15 exceptional.

16 Oftentimes when a verdict is read, it becomes
17 an emotional situation. I do not allow any
18 emotional outbursts, any untoward behavior, or any
19 other show of acting out, as they call it. So if
20 you think you cannot listen to the verdict without
21 emotions, I'm asking that you leave now.

22 If I have any behavior that is not appropriate
23 for this courtroom, you'll be detained and subject
24 to contempt of court which could carry up to six
25 months in the department of corrections. So, fair

1 warning, if you cannot behave or cannot control
2 yourself, I'll ask you to leave now. I will not
3 tolerate it.

4 All right. Bring the jury in, please.

5 (The jury enters the courtroom at 12:02 PM.)

6 THE COURT: Madam Forelady, have y'all reached
7 a verdict?

8 THE FOREWOMAN: Yes, sir.

9 THE COURT: Hand it to the bailiff, please.
10 You may publish it.

11 THE CLERK: Yes, sir.

12 Indictment 2015-GS-32-1050, the State vs.
13 Candice R. Beasley, as to the offense of infliction
14 of great bodily injury upon a child, we the jury
15 find the defendant guilty. And it is so signed.

16 Indictment 2015-GS-32-1393, the State vs.
17 Candice R. Beasley, as to the offense of unlawful
18 conduct towards a child, we the jury find the
19 defendant guilty. And it is so signed by the
20 forelady.

21 Madam Forelady, ladies and gentlemen of the
22 jury, if this is your verdict, please indicate, each
23 of you, by raising your right hand.

24 All hands raised, Your Honor.

25 THE COURT: Anything further for the jury

1 before I release them?

2 MS. MAYES: Nothing from the State, Your Honor.

3 THE COURT: Mr. Hudson?

4 MR. HUDSON: Can the jury --

5 THE COURT: Anything further?

6 MR. HUDSON: Your Honor, I'd like the jury to
7 be polled and polled individually.

8 THE COURT: I can ask them individually. Is
9 that what you want?

10 MR. HUDSON: Yes, sir.

11 THE COURT: All right. Madam Forelady, ladies
12 and gentlemen of the jury, oftentimes at the
13 conclusion of a case, a lawyer will ask that the
14 jury be polled. It is simply this: They will call
15 your name. If you would, please stand, and you will
16 be asked is this your verdict and is it still your
17 verdict? And please answer.

18 THE CLERK: Thank you, Your Honor.

19 Victoria Pait is this your verdicts and are
20 they still your verdicts.

21 JUROR PAIT: Yes, ma'am.

22 THE CLERK: Tasha Golston, are these your
23 verdicts and are they still your verdicts?

24 JUROR GOLSTON: Yes, ma'am.

25 THE CLERK: William Fields, as to the verdicts,

1 are these your verdicts and are they still your
2 verdicts?

3 JUROR FIELDS: Yes, ma'am.

4 THE CLERK: Suzanne Kingsbury, as to the
5 verdicts, were these your verdicts and are they
6 still your verdicts?

7 JUROR KINGSBURY: Yes, ma'am.

8 THE CLERK: Charles O'Cain, as to the verdicts,
9 were these your verdicts are they still your
10 verdicts?

11 JUROR O'CAIN: Yes, ma'am.

12 THE CLERK: David Gunter, as to the verdicts,
13 were these your verdicts and are they still your
14 verdicts?

15 JUROR GUNTER: Yes, ma'am.

16 THE CLERK: Shabrell Bovain, as to the
17 verdicts, were these your verdicts and are they
18 still your verdicts?

19 JUROR BOVAIN: Yes, ma'am.

20 THE CLERK: Angelyn Larman, as to the verdicts,
21 were these your verdicts and are they still your
22 verdicts?

23 JUROR LARMAN: Yes, ma'am.

24 THE CLERK: Tom Wall, as to the verdicts, were
25 these your verdicts and are they still your

1 verdicts?

2 JUROR WALL: Yes, ma'am.

3 THE CLERK: Matthew De'Way, as to the verdicts,
4 were these your verdicts and are they still your
5 verdicts?

6 JUROR DE'WAY: Yes, ma'am.

7 THE CLERK: William Wynne, as to the verdicts,
8 were these your verdicts and are they still your
9 verdicts?

10 JUROR WYNNE: Yes, ma'am.

11 THE COURT: Christopher Manuel, as to the
12 verdicts, were these your verdicts and are they
13 still your verdicts?

14 JUROR MANUEL: Yes, ma'am.

15 THE COURT: Everyone has been polled and
16 answered in the affirmative.

17 All right. Madam Forelady, ladies and
18 gentlemen, y'all have been excellent, y'all have
19 paid close attention. I could not ask any more from
20 a jury than what y'all have done. You've exercised
21 your civil responsibilities appropriately and I
22 thank you. Madam Forelady, we have one 15-second
23 matter for you to do for us. I'll have the clerk
24 meet you back in the jury room when we conclude.

25 I've got the rest of the jury panel coming in

1 at 2:00 to start another case. We're trying to move
2 as many cases as we can. But I'm going to exercise
3 my discretion and excuse you for the balance of the
4 week so you won't have to come back. Y'all have
5 provided your service already, so I have enough
6 jurors to draw a second jury and go from there. I
7 thank you. I'll excuse you now for the balance of
8 the week.

9 I assume y'all send them a check. Is that
10 correct, Madam Clerk?

11 THE CLERK: Yes, sir. We send them a check and
12 a certificate of service.

13 THE COURT: And if anyone needs a work excuse
14 today, if you'll go back to the jury room, our
15 wonderful clerk will take care of that. Thank you
16 very much. Everybody else remain seated.

17 (Jury excused.)

18 THE COURT: All right. As we discussed in
19 chambers this morning, sir, I will give you ten days
20 to file any posttrial motions you wish to file. Is
21 that appropriate or fair, Mr. Hudson, or are you --
22 or you can do them right now if you'd like.

23 MR. HUDSON: I would like the leave to file
24 within ten days, Your Honor.

25 THE COURT: All right. If you don't mind, if

1 you'll file it with the clerk, please provide copies
2 to me and Ms. Mayes. And I'm not in Lexington on a
3 regular basis, but we'll have to make arrangements
4 very shortly thereafter. It may be in Aiken or --
5 we'll make some arrangements that's compatible with
6 your schedule and have the posttrial motions heard.
7 Fair enough?

8 MR. HUDSON: Yes, Your Honor.

9 THE COURT: All right. Is the State ready for
10 sentencing or do y'all want a few minutes to gather
11 your thoughts? Do you have the sentencing sheets?

12 MS. MAYES: Yes, sir, Your Honor, we do.

13 THE COURT: Mr. Hudson, do you need until 1:30
14 or 2:00 or are you --

15 MR. HUDSON: I think I'm --

16 THE COURT: Go over those with Ms. Beasley,
17 please.

18 MS. MAYES: Your Honor, we have both reviewed
19 the sentencing sheets. We do believe they are
20 correct. The unlawful conduct towards a child is
21 classified as nonviolent; the charge of infliction
22 of great bodily injury upon a child is classified as
23 violent and is a no-parole offense.

24 THE COURT: Do y'all not sign the sentence
25 sheets?

1 MS. MAYES: We normally don't, but we can if
2 the Court prefers.

3 THE COURT: All right. If I'm reading the
4 statute correctly, please let me know if you
5 disagree with me, the potential sentence for
6 unlawful conduct towards a child is ten years.

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

8 THE COURT: Mr. Hudson, do you agree with that?

9 MR. HUDSON: Yes, sir, Your Honor.

10 THE COURT: And the infliction of great bodily
11 harm is a potential five-year sentence.

12 MS. MAYES: Your Honor, that would be zero to
13 20. Zero to 20 for the person who inflicts and --

14 THE COURT: Hold on one second. I apologize.
15 I don't know how I was reading that wrong. You're
16 exactly correct. Under Subsection A of 16-3-95, it
17 states, quote, it is unlawful to inflict great
18 bodily injury. A person who violates this
19 subsection is guilty of a felony and upon conviction
20 must be in prison not more than 20 years. Is that
21 correct?

22 MS. MAYES: Yes, sir.

23 THE COURT: So is that a no-parole, 85-percent
24 sentence.

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

1 THE COURT: You agree with that, Mr. Hudson?

2 MR. HUDSON: I do, Your Honor. But I also
3 think the Court may be looking at Subsection B of
4 that.

5 THE COURT: Subsection what?

6 MR. HUDSON: Subsection B, which is the
7 five-year section.

8 THE COURT: That's where I was reading that.

9 MR. HUDSON: Yes, sir. It's in the statute.

10 THE COURT: All right. That's for knowingly
11 allowing another person to inflict great bodily
12 harm. So that would be someone who actually did not
13 inflict it, but allowed someone else to do so. Is
14 that both of you's understanding?

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

16 MR. HUDSON: Yes, sir.

17 THE COURT: This indictment was for the
18 infliction of great bodily injury. It was not under
19 Subsection B; it was indicted under Subsection A.
20 Is that correct, Ms. Mayes?

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

22 THE COURT: So, Mr. Hudson, under the great
23 bodily injury, that is a potential 20-year sentence
24 with it being a no-parole, 85-percent sentence, and
25 classified as violent which will have some effect on

1 where and how she's housed in the department of
2 corrections.

3 All right. Anything the State would like to
4 add to the case before I impose sentence?

5 MS. MAYES: I beg the Court's indulgence.

6 Your Honor, this is Latoya Mitchell, she is
7 **minor**'s mother. And also Detective Dykes from the
8 Sheriff's Department also wishes to address the
9 Court briefly.

10 Some of the background, Your Honor, is that
11 Ms. Mitchell had served in the Army overseas. She
12 was in Iraq and, as a result of her service over
13 there, when she returned, one of the emotional or
14 mental health issues that she was facing was
15 posttraumatic stress disorder. She was a single
16 mom. And those are the factors that led to,
17 ultimately, the placement of **minor** with Ms. Beasley
18 who had been pretty much a lifelong friend or a
19 long-term friend of Ms. Mitchell and the godmother.
20 **minor** was in the care of DSS for over six months --

21 THE COURT: After October 14, 2014?

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

23 And recently, following the DSS proceedings and
24 family court intervention, was returned to the care
25 of Ms. Mitchell. She has relocated here to South

1 Carolina for the purpose of following through with
2 the DSS treatment plan, doing everything that she
3 needs to do. She has gone above and beyond in
4 assisting us in every way possible and has really
5 made a lot of efforts as a single mom. She's now
6 working here in Columbia and minor is back at --
7 ready to start school in the first grade. And she
8 does wish to address the Court.

9 THE COURT: All right. Normally I let the
10 Defense talk and then I'll hear from you, ma'am.
11 And you said you had an officer that wanted to
12 speak?

13 MS. MAYES: Yes, sir, Your Honor, Detective
14 Dykes. And then we also the photographs which have
15 been submitted to Your Honor for review as well.

16 THE COURT: I have them up here.

17 Mr. Hudson?

18 MR. HUDSON: May it please the Court. This is
19 Candice Beasley and she's 29 years of age. She's
20 single and she does not have any children.
21 Ms. Beasley relocated from Missouri to South
22 Carolina.

23 THE COURT: Missouri.

24 MR. HUDSON: Kansas City, Missouri.

25 THE COURT: To here.

1 MR. HUDSON: To South Carolina. She chose --
2 from all the places in America to live, she chose
3 South Carolina. She enjoyed the state, she enjoyed
4 the visit she had with her sister here, and she
5 relocated to South Carolina to make this her home.

6 As the Court is now aware that her friend,
7 Ms. Mitchell, who at that time was living in
8 Missouri reached out to Candice and asked her to
9 help with her child and Candice agreed, Your Honor.

10 Ms. Beasley has no criminal record, I think,
11 other than a bad check that's right at ten years or
12 more so ago. She's always been employed, she's
13 fully employed, she has worked, Your Honor,
14 tirelessly for her community, worked up until the
15 time of -- may I approach, Your Honor?

16 THE COURT: You may.

17 MR. HUDSON: Up until the time of the
18 conclusion of the family court matter, she was a
19 youth choir director at her church. She is still
20 active in her church and active in her community.

21 But what I've given to the Court is an
22 accommodation she received from the State of
23 Missouri House of Representatives when she was in
24 high school commending her for her character, her
25 charity.

1 We would ask, Your Honor, that she be given an
2 opportunity to receive a probationary sentence in
3 this matter, a long, long-term probationary sentence
4 in this matter, Your Honor. The Court, while
5 certainly not intentionally, has been able to see
6 that Ms. Beasley from Monday and Tuesday when she
7 was released to go home, certainly came back on
8 time. She beat me here on the last three days. She
9 came to court before I did. So she will follow the
10 rules, she will abide by the rules.

11 She has strong ties to this community. Her
12 sisters, Chandra and Kimberley live here. She lives
13 with Kim. Her mother is here in court, she traveled
14 from Missouri to be here to support her through this
15 trial, Your Honor. We're just asking for as much
16 consideration as the Court can give her in terms of
17 an opportunity to begin to rebuild and to continue
18 her life in this community.

19 THE COURT: Ms. Beasley, anything you'd like to
20 tell me?

21 THE DEFENDANT: I think that -- I first thank
22 you for even hearing the case. I ask that you would
23 see that I am actually -- I consider myself a South
24 Carolina resident. I pray that since I don't have
25 any prior offenses that you would grant a probation,

1 even if it's long-term. I have not missed a call
2 since I've been on bail, I have not missed a
3 hearing. I've actually been early for every single
4 appointment that I've had with the courts, as well
5 as I've made and not missed any bail bonds, things
6 that they have asked me to do either.

7 THE COURT: Thank you.

8 Anything else, Mr. Hudson?

9 MR. HUDSON: She'd like to make a final
10 statement to the Court.

11 THE COURT: Yes, ma'am.

12 THE DEFENDANT: Sir, I've known **minor** since
13 **minor** was born. I love **minor** even to this day
14 when he was on the stand. **minor** has been my heart.
15 I'm sure his mother knows that, everybody in our
16 family is tied to **minor**

17 And I would like to apologize to both **minor**
18 and Toya for any turmoil that this has caused with
19 their family, any turmoil that it has caused between
20 us. I pray for **minor** every day, I pray for Toya
21 every day. And my prayer is that **minor** will grow
22 into an awesome young man.

23 THE COURT: Thank you.

24 All right. You want the investigator speak
25 first, Ms. Mayes?

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

2 MR. DYKES: Your Honor, may it please the
3 Court. Your Honor, thank you for giving me the
4 opportunity to address the Court in this matter.
5 Your Honor, it is clear that the jury has spoken the
6 truth in this case and has also validated the truth
7 in this case.

8 They say that pictures can be worth a thousand
9 words, but I believe in this case that pictures
10 before you, Your Honor, they speak two words; they
11 speak pain and torture, not only pain for minor
12 [REDACTED], but also painful for me to look at and
13 other people in this courtroom, as you've seen
14 emotions come out.

15 I agreed with the Defense on one thing in his
16 opening statement. Mr. Hudson, he said that
17 picture -- as he was holding the pictures, the
18 picture is what it is. And I truly believe that. I
19 agree 100 percent with Mr. Hudson because they
20 accurately depict the pain, torment, and torture
21 that minor [REDACTED] went through in this case.

22 I've worked numerous child abuse cases to
23 include sexual assaults and physical abuse, and I
24 can honestly say, Your Honor, I've never worked a
25 case like this with the severe injuries to this

1 child's skin. It's obvious that these injuries are
2 severe in nature and will cause permanent scarring,
3 not only physically, Your Honor, for many years, but
4 mentally as well.

5 The jury saw through the lies and deceit that
6 the defendant put up. We've heard minor say in his
7 testimony that Godmommy Candice didn't mean to do
8 it. Well, I've also had a victim, Your Honor, in a
9 past case of mine where she was stabbed by her
10 husband over 20 times and left for dead. She lived,
11 but she said the same thing: He didn't mean to do
12 it, he loves me. Your Honor, this is a sign of a
13 true victim. These are common statements made by
14 true victims in abusive situations and
15 relationships.

16 And one last thing, I was given this message by
17 former Sheriff McCardy who is -- his tenure was
18 while I was working this case when I was assigned to
19 the Major Crimes Unit. He has a vested interest in
20 this case and stands 100 percent behind the State.
21 And, Your Honor, I have nothing but 100-percent
22 confidence that you'll be fair and just in
23 sentencing in this case. Thank you.

24 THE COURT: I commend you and your department
25 on the excellent investigation and your caringness

1 for this child. He's a remarkable young man. I
2 said something yesterday in jest, he's almost as
3 great as my two grandchildren who are two greatest
4 kids in the world.

5 MR. DYKES: Yes, sir. Thank you, Your Honor.

6 THE COURT: In all seriousness, he was just an
7 engaging, bright, little sweet little child and
8 smart.

9 MR. DYKES: Yes, sir.

10 THE COURT: So smart.

11 MR. DYKES: Thank you again, Your Honor.

12 THE COURT: Mom?

13 MS. MITCHELL: I am very conflicted.

14 THE COURT: I'm sure you are. Here's one of
15 your best friends and your own flesh and blood, your
16 child, and I assume when you saw these photographs,
17 you just didn't know what to do.

18 MS. MITCHELL: (Nods head).

19 THE COURT: I think that's a condition, I guess
20 that's the correct word, of being conflicted and
21 searching for answers and saying why, why, why.

22 MS. MITCHELL: Because minor is an awesome
23 little kid. He's great. He does have behavior
24 issues, but it's not something that can't be fixed
25 or corrected.

1 I did send him to her because of my PTSD
2 issues. I made him -- when I found out I was
3 pregnant with him -- she's my best friend in the
4 whole wide world. And when I found out I was
5 pregnant with him, I didn't want anybody else to be
6 the godmother but her because we had been so close
7 and she has always been there for me, her and her
8 whole family, her entire family.

9 And this is killing me and it's killing my son.
10 Even though he doesn't understand what's going on,
11 he still wants to reach out and contact them because
12 he loves them and I love them too. But I don't -- I
13 just don't understand what happened. I don't
14 understand what happened.

15 THE COURT: Neither do I.

16 MS. MITCHELL: I just -- I don't. And all of
17 this could have been avoided if they just could have
18 called me and told me they couldn't handle him, and
19 I would have come and got him. It wasn't that I
20 couldn't take care of him, it wasn't that somebody
21 in my family couldn't take care of him. We all
22 would have did whatever it was we needed to do to be
23 there for him. I just -- I don't know.

24 My heart is broken. It feels like I'm losing
25 an entire family. My son is just -- he's -- he's

1 trying to -- he's trying to understand. I don't
2 know what to tell him. I don't know what to tell
3 him at all because he tells me, I love Godmommy
4 Candice, I love Auntie Foo Foo, I love and Auntie
5 Kim. I don't think he really gets it, the severity
6 of the situation. And I don't know how to explain
7 it to him.

8 THE COURT: He'll understand it one day, ma'am.

9 MS. MITCHELL: When he gets older, hopefully,
10 one day he'll understand. I -- I don't want to see
11 her go to jail for the rest of her life.

12 THE COURT: She's not going to jail for the
13 rest of her life.

14 MS. MITCHELL: I don't want her to go to jail
15 forever or a very long time because --

16 THE COURT: Well, ma'am, let me tell you,
17 unfortunately that's my responsibility as this -- in
18 this position. And it's the toughest responsibility
19 I have. Sometimes it's easy to sentence somebody.
20 These are tough cases.

21 And I understand your conflicts, but I was put
22 in this position 12 years ago, one of my main
23 responsibilities is to protect babies, children.
24 And I take that responsibility -- I take that
25 responsibility very serious.

1 To be quite honest with you, I've been doing
2 this a long time and I've only seen these pictures
3 and photographs sitting up here looking down. I've
4 studied them and, quite frankly, it's -- I can't
5 comprehend it either. I can't comprehend it either.
6 Thank you.

7 Anything else, Ms. Mayes?

8 MS. MAYES: Your Honor, I think it goes without
9 saying that the State is opposed to probation in
10 this case.

11 THE COURT: Well, you have to be around long
12 time to become callus to these types of cases. And
13 I know I haven't been around that long because these
14 cases still bother me, to see little children like
15 this.

16 And, you know, these photographs, if you look
17 at them, just looking at the various angles of the
18 photographs where it's -- you look at side views,
19 photograph 20, I count 28 different lash marks; if
20 you look at photograph 13, 16 more; photograph 12,
21 12 more; 27 in photograph 11; 14 in -- 37 in 29 and
22 11 in 21.

23 And I'm sure some of them are the same. But
24 when you just look at them, it looks like this is
25 something out of Biblical times when people were

1 punished by whip, lash, or in earlier times in our
2 history of colonial times. These injuries are
3 unfathomable to me. I just can't imagine.

4 Ms. Beasley has apologized for the turmoil it's
5 caused. But up until now, she's not yet, to me,
6 accepted responsibility for her actions. She's not
7 apologized to the injuries she's caused this young
8 man. I found her testimony, not only in the trial,
9 but in the Jackson v. Denno hearing, to be highly
10 incredible, unbelievable. And I too agree this is
11 certainly not a case for probation.

12 As to Indictment 2015-GS-32-1050, infliction of
13 great bodily injury, the sentence of the Court is
14 that you be committed to the state department of
15 corrections for ten years. As to the unlawful
16 conduct, that too is a ten-year sentence. They will
17 run concurrent, you'll be given credit for time
18 served. Good luck to, you ma'am.

19 MS. MAYES: Thank you, Your Honor.

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 10th, 11th, 12th of August, 2015.

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

February 3, 2017

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter

State of South Carolina

Court of General Sessions

County of Lexington

State

V.

Candice R. Beasley

Defendant.)

Transcript of Record

2015-GS-32-1050

2015-GS-32-1393

November 3, 2015

Lexington, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Suzanne Mayes, Assist. Solicitor
Attorney for the State

Stephen L. Hudson, Esquire
Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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1 P R O C E E D I N G S

2 * * *

3 THE COURT: This is the case of State of South
4 Carolina vs. Candice Renee Beasley. Ms. Beasley is
5 present today represented by her attorney Stephen L.
6 Hudson of the Richland County Bar. Ms. Beasley was
7 tried in this courtroom and found guilty. She was
8 sentenced by me on August 12th, 2015. She was found
9 guilty of the offense of unlawful conduct towards a
10 child. Is that correct, Ms. Mayes?

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

12 THE COURT: And was sentenced to a period of
13 ten years in the South Carolina Department of
14 Corrections. She was also found guilty of
15 infliction of great bodily harm to a minor as
16 outlined in Indictment 2015-GS-32-1050, and likewise
17 found guilty. And I gave her a ten-year sentence on
18 that. Both of those sentences were run -- actually,
19 15-32-1393 was to run concurrent in 1050 which
20 resulted in a ten-year sentence.

21 At the conclusion of the trial, I gave counsel
22 instead of making any posttrial motions, I gave him
23 an option to -- or ten days to file any written
24 motions so he could, obviously, have time to reflect
25 on what all had happened and to not have to shoot

1 from the hip, so to speak. And, timely, he filed a
2 notice of motion and motion for new trial and other
3 posttrial motions. And they were set, I think, a
4 couple weeks ago when we had the heavy rains and the
5 dam broke and all the court was canceled that week,
6 if I recall correctly. Is that right?

7 MR. HUDSON: That is correct, Your Honor.

8 THE COURT: So we set it for the next time I
9 was going to be here. I think I even gave them an
10 an opportunity to come wherever I was, but this
11 probably suited everybody better. So we're here,
12 running a few minutes behind. But, Mr. Hudson, good
13 morning.

14 MR. HUDSON: Good morning.

15 THE COURT: Ms. Beasley, good morning.

16 THE DEFENDANT: Good morning.

17 THE COURT: And, Mr. Hudson, I'll be glad to
18 hear from you. Anything else though? Is that
19 pretty much a correct recitation of how we got to
20 where we are?

21 MR. HUDSON: Correct, Your Honor.

22 THE COURT: Ms. Mayes?

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

24 THE COURT: Mr. Hudson.

25 MR. HUDSON: As the Court has accurately said,

1 there are written motions in the Court's files, the
2 first of which, I think, is a request for new trial.

3 The basis is that the evidence presented at the
4 time of the trial in this action where it concerns
5 the infliction of great bodily injury to a child, in
6 this action, the State, we feel, failed to meet the
7 standard of showing to a jury that the child had
8 suffered either serious or permanent disfigurement.

9 It's our contention that without sufficient
10 medical evidence to support whether the body would
11 heal, whether the body would have time to recover,
12 or overtime these conditions would be considered
13 serious or disfigurement, the jury was without
14 sufficient information to reach the conclusions as
15 required by the statute. So we feel that the State
16 failed to present to the jury sufficient evidence --

17 THE COURT: Doesn't that statute -- I don't
18 have it right in here in front of me. But did it
19 not define that as serious scarring, serious
20 disfigurement? Is that correct?

21 MS. MAYES: Serious or permanent disfigurement.

22 MR. HUDSON: It didn't use the word scarring,
23 Judge. But I concur with her, it --

24 THE COURT: Serious or permanent?

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

1 MR. HUDSON: Serious or permanent. And it used
2 the word disfigurement, not scarring.

3 THE COURT: Okay.

4 MR. HUDSON: And just as the Court may assume
5 that disfigurement meant scarring, it may not
6 necessarily mean scarring when you look at it in
7 the, I guess, medical -- within a reasonable degree
8 of medical certainty.

9 THE COURT: Well, doesn't disfigurement mean
10 any kind of -- you're certainly not disfigured, you
11 look -- from what I can see of you --

12 MR. HUDSON: Yes, sir.

13 THE COURT: If you're like the last defendant
14 in here, he's lost both legs from diabetes, he's
15 disfigured from not having two legs. If I'm
16 crippled in some manner, obviously I'm disfigured or
17 I would assume disfigurement includes scarring to
18 the effect that the young man had. That would be my
19 reasoning or my holding on that, that disfigurement
20 pretty much speaks for itself. But you argue it
21 however you would like to argue it.

22 MR. HUDSON: But along those lines, Your Honor,
23 if I may just pick up, the statute says serious or
24 permanent disfigurement. The example the Court just
25 gave is certainly serious and permanent

1 disfigurement. The question is whether or not the
2 scars sustained by the child in this case, whether
3 those scarrings would rise to the level of being
4 serious and/or permanent.

5 THE COURT: Does it have to be and/or or just
6 serious or?

7 MR. HUDSON: It says serious or. It uses the
8 words serious or permanent.

9 THE COURT: So your argument is simple; that it
10 requires medical testimony to a reasonable degree of
11 medical certainty that it's more likely than that
12 they would be permanent and/or serious.

13 MR. HUDSON: Yes, sir, Your Honor, because in
14 this instance the child was not subject to a
15 physical exam or medical treatment -- excuse me. I
16 apologize. The child only got a physical
17 examination. He did not receive any medical
18 treatment. He received no medical treatment at all
19 during the course of his --

20 THE COURT: That's correct. We only had one
21 doctor who testified. And if I remember correctly,
22 he conducted the initial exam and that was it.

23 MR. HUDSON: He did a physical exam. He did
24 not treat the child for any condition the child
25 suffered or any complaints the child had at the

1 time. He said his sole purpose was to conduct a
2 physical examination. He even went on to say that
3 it wasn't a situation where death was imminent or
4 threatening which resulted in the Court's concerning
5 the instruction to the jury.

6 He also indicated that he was not -- his
7 facility was not a facility used for child abuse
8 cases. So he conducted a physical examination. The
9 child never treated for the injuries or scarring he
10 sustained. And I would indicate that that would be
11 an indication that that is not a serious condition
12 if there's no medical treatment at all --

13 THE COURT: Mr. Hudson, do we have any cases
14 that support your position that says that it
15 requires testimony of an expert to opine that it is
16 either serious or permanent disfigurement?

17 MR. HUDSON: No, sir, Your Honor. I don't have
18 any case law to support that specific criteria the
19 Court is asking for. But if it is a question that I
20 believe the jury would need help with ascertaining,
21 I think an expert witness or any treating physician
22 would help the jury focus in on whether or not the
23 condition is serious.

24 THE COURT: Just like we do in all cases where
25 we have an expert; it has to be a matter that's sort

1 of outside the person's ordinary daily activities.
2 That's where we use an expert. If the jury can
3 determine from the evidence the ultimate question,
4 then an expert is not used.

5 Then the question becomes is scarring, such as
6 the young boy had, is that something the jury can
7 determine is serious disfigurement or permanent
8 disfigurement or do we need an expert. So that's
9 sort of where we are with that question, right.

10 MR. HUDSON: That's correct, yes, sir.

11 THE COURT: And, you know, we run into that now
12 with the new definition of assault and battery and
13 the various degrees of assault and battery and
14 serious and all that. It's become an interesting
15 issue in a lot of cases. And I understand your
16 point, but we don't have any appellate guidance on
17 it.

18 MR. HUDSON: And if I could continue, Your
19 Honor.

20 THE COURT: I'm sorry. I didn't mean to
21 interrupt you.

22 MR. HUDSON: No, no, sir, not at all. I
23 certainly appreciate the Court's comments.

24 Just to move on to the next position, the next
25 statute that my client was found guilty of would

1 require -- it says that the alleged child who was
2 abused or allegedly abused was at an unreasonable
3 risk of harm affecting his life, physical and mental
4 health, and safety, and that the defendant did or
5 caused to have happen, unlawfully or maliciously,
6 any bodily harm to the child.

7 And it's our position that it arises to the
8 level of certain intent on behalf of the defendant.
9 And we believe, Your Honor, that the evidence
10 presented by the State did not show intent on behalf
11 of the client, on behalf of Ms. Beasley.

12 THE COURT: Well, your client denied doing it
13 at all.

14 MR. HUDSON: Yes, sir, she did.

15 THE COURT: So didn't it, therefore, become a
16 jury issue as to whether or not, number one, she did
17 it, and number two, if she did it, she did it with
18 intent as set out in the section that was
19 applicable? Is that not simply a jury question?

20 MR. HUDSON: It would be a jury question. And
21 I believe, there again, there should have been
22 something that would help the jury reach that
23 conclusion. She denied doing it. There's
24 uncorroborated evidence of the child that she did
25 it. So we'd ask that on those two grounds we be

1 granted a new trial.

2 THE COURT: All right.

3 MR. HUDSON: The second motion that I filed,
4 Your Honor, deals with -- and I'm not sure if you
5 want me to do all three of them and then --

6 THE COURT: Yes, sir, please.

7 MR. HUDSON: The second deals with Dr. Maxwell
8 Nowell who was the emergency room physician. And
9 we've touched upon his testimony. It's our
10 contention that he, while certified as an expert in
11 emergency room procedures, never testified to
12 emergency medicine.

13 What he performed that day was not emergency
14 medicine. His testimony indicated that that was the
15 case. He performed a physical examination of the
16 child. He didn't perform emergency medicine. He
17 didn't perform anything that had to do with triage
18 or anything that had to do with life or death
19 threatening conditions.

20 The child was brought in a day after it was
21 discovered that he had these scars to the Lexington
22 Medical Center to the emergency room. This doctor
23 appeared before the jury as an expert witness in
24 emergency room medicine. What he did concerning the
25 was everything but emergency medicine. So the

1 objection was that he was testifying outside of what
2 he was qualified to testify to and, hence, his
3 testimony should have been stricken or not allowed.

4 One of the other things that happened in his
5 testimony was that he was asked were the statements
6 from the patient such that you use to determine your
7 conclusions, and we'd argue that that was
8 bolstering.

9 And then the third motion that we made kind of
10 tailed us with that as well. There were two
11 witnesses offered by the State; one was the
12 Department of Social Services employee and the other
13 was Investigator Dykes. Both testified that they
14 attended the forensic examination of this child.
15 When the objection was made concerning the
16 Department of Social Services employee, the State --
17 the Court, at that time, sustained the objection in
18 that the testimony was beyond the scope of the
19 direct, so it wasn't allowed in.

20 However, when the investigator testified
21 likewise that he attended the forensic
22 investigation, was able to observe it, and then went
23 on to present his testimony based upon what he
24 observed. That objection was overruled and the
25 officer was allowed to testify.

1 THE COURT: What in particular do you find
2 offensive in what he said? Because, obviously, he
3 can't bolster the testimony of the child and vouch
4 for his credibility. He can observe what he saw.
5 But what particular testimony do you find that would
6 warrant a new trial?

7 MR. HUDSON: Your Honor, I did not get a copy
8 of the transcript. My recollection is that he
9 testified as to things he heard the child say during
10 the examination. If that's the case, then his
11 taking that information and using it to support his
12 decision to file these charges, bring this action,
13 would, in fact, bolster the child's testimony, Your
14 Honor.

15 THE COURT: So mainly your argument is that it
16 was a bolstering credibility of the child --

17 MR. HUDSON: Yes, sir.

18 THE COURT: -- or believability of the child,
19 which is, of course, not allowed?

20 MR. HUDSON: Yes, sir.

21 THE COURT: All right. Anything else?

22 MR. HUDSON: That's it, Your Honor.

23 THE COURT: Ms. Mayes?

24 MS. MAYES: Yes, sir, Your Honor. As to the
25 first point raised by Mr. Hudson concerning the

1 serious or permanent disfigurement element of that
2 statute 16-3-95, infliction of great bodily injury
3 upon a child, Your Honor, the testimony of the
4 treating physician, the emergency room doctor, was
5 that these injuries involved some type of injury to
6 a deep layer or the second layer of skin tissue in
7 order to result in the presence of these scars.

8 And there were multiple scars. I believe at
9 the time of sentencing, it was calculated exactly
10 how many marks were on the child, and it was over 20
11 marks, many of those still present at the time of
12 the trial which was almost one year later.

13 The visible scars remained in the form of loop
14 marks and they were located on the child's abdomen,
15 back, and legs. At one point those scars were made
16 apparent to the jury during the State's presentation
17 of its case, and the jury was able to visually
18 assess those scars and make that determination on
19 their own.

20 And when we talk about the definition of
21 serious or permanent disfigurement, as the statute
22 says, it is or, so the jury doesn't have to find
23 that they're necessarily permanent, merely that they
24 amount to serious disfigurement.

25 In looking at how to develop the charge to the

1 jury, I believe we had submitted the common
2 Webster's definition of disfigurement. It included
3 the term scarring. That is a recognized form of
4 disfigurement being scarring.

5 And in addition to that, the term serious is
6 not a medical term. Serious disfigurement is a
7 common term, and it's for a jury's determination or
8 discretion as to what amounts to serious
9 disfigurement. Again, that is not a recognized
10 medical term. It would be within the jury's
11 discretion.

12 THE COURT: And it's clear the statute is not an
13 and/or. I mean, it's or; it's not both of them,
14 it's one or the other.

15 MS. MAYES: Correct, Your Honor.

16 THE COURT: It could be both, but either one or
17 the other is all that's necessary for conviction.

18 MS. MAYES: Yes, sir, Your Honor. As to the
19 second point raised by Mr. Hudson regarding the
20 testimony of the emergency room physician, Your
21 Honor, he was offered as an expert. Part of what he
22 testified that he does when he's triaging a patient
23 is he has to gather medical history and that medical
24 history is necessary for his determination as to how
25 to proceed with medical diagnosis and treatment.

1 That's a recognized exception under the rules of
2 evidence.

3 Rule 8034 specifically allows for statements
4 made for the purpose of medical history to be an
5 exception to hearsay when they're used by a medical
6 professional or a physician. Here he had to
7 determine how to proceed with the child's treatment,
8 not only the physical injuries that he was able to
9 observe, but a recommendation for things such as
10 skeletal surveys with the possibility that with this
11 many injuries to this many body locations, the child
12 could have some type of internal injury that would
13 be detected by ultrasound or some type of bone
14 injury. And so it was necessary to dictate how he
15 would proceed with his treatment and diagnosis of
16 the patient.

17 Finally, Your Honor, as to the third factor, I
18 believe he raised the point concerning the testimony
19 of Detective Dykes not an objection to the testimony
20 of the DSS case worker. What Detective Dykes
21 testified to during cross-examination was an issue
22 raised by specifically raised by Mr. Hudson. The
23 State had not elicited any testimony from Detective
24 Dykes during his direct examination about any
25 statements made by the child concerning what

1 occurred.

2 Mr. Hudson specifically questioned Detective
3 Dykes about a portion of a statement the child made
4 during the forensic interview, and so Detective
5 Dykes answered that question. And then in response,
6 in redirect, I posed a question intended to elicit
7 the full statement under Rule 106 being the
8 remainder of that statement as to what the child
9 said in that regard.

10 The statement came in about where the child
11 said an assault had taken place, but there was
12 nothing testified to by Detective Dykes that would
13 lead to bolstering or enhancing the child's
14 credibility. It was merely a statement made in
15 response to cross-examination and then brought out
16 in full in redirect.

17 THE COURT: Now, do you have a copy of that
18 transcript?

19 MS. MAYES: I do not, Your Honor. But I recall
20 that the question elicited by Mr. Hudson was about
21 one of the assaults potentially occurring at the
22 school or on the school premises, and then we
23 brought out the remainder of the child's statement
24 in that regard. Detective Dykes did not offer any
25 opinion testimony regarding the child's credibility.

1 THE COURT: Anything in reply?

2 MR. HUDSON: Your Honor, just briefly. I do
3 not recall -- I'm not saying it's not accurate. I
4 just don't recall because I don't have the
5 transcript either. But even if that is an accurate
6 assessment, the question had to do with the location
7 of the incident, not to what the child in fact --
8 what he observed in his forensic examination.

9 And the case that I cited, the Anderson case,
10 deals with that expert witness who actually conducts
11 the examination. This is one step even further
12 removed. So anything he sees or hears while he's
13 sitting in a chair in a reception area, I guess,
14 observing a conversation child and a third party,
15 that entire testimony, any reference to it, should
16 not be allowed.

17 THE COURT: All right. I'll take it under
18 advisement. Particularly my main concern is the
19 testimony of Dykes. I'm going to ask my court
20 reporter just to give me the testimony of Mr. Dykes,
21 the direct, cross, and redirect, provide copies to
22 Ms. Mayes and Mr. Hudson, and let me look at that
23 before I make a ruling on this. Thank y'all very
24 much.

25 MR. HUDSON: Thanks, Judge.

1 MS. MAYES: Thank you, Your Honor.

2 -- END OF TRANSCRIPT OF RECORD --

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 3rd of November, 2015.

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

February 7, 2017

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

County of LexingtonCandice R. Brasley 365065

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2019 CP3200407

APPLICATION FOR

POST-CONVICTION RELIEF

2019 JAN 29 AM 9:41

LISA M. PERRY
CLERK OF COURT
LEXINGTON, SC

FILED

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 Leath Correctional, 2809 Airport Rd.
Greenville, SC 29619
2. Name and location of Court which imposed sentence General Sessions for
Lexington County, Columbia, SC
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2015-GS-32-1050, 2015-GS-32-1393
 - (b) Infliction of Great Bodily Injury & Unlawful Contact toward a child.
10 year sentences each.

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) August 10, 2015 - Ten years on each count (concurrent)
- (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?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SC Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denied (Affirmed)
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. 11/7/18
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Poor Representation by counsel including ineffective assistance
 (b) during trial of case; Incarceration of an innocent person,
 (c) a clear violation of Applicant's constitutional rights.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Applicant has maintained her innocence; but was wrongfully
 (b) convicted and serving 10 years in SCDC as a result of poor
 (c) ineffective counsel.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Only Appeal to SC Court of Appeals.
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

No

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

(a) which grounds have been presented:

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

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

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

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

- (a) Applicant is just now able to file PCR
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? _____
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (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. Stephen L. Hudson
Columbia, SC
- ii. Laura M. Caudy
P.O. Box 11589, Columbia, SC 29211
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Trial
- ii. Appeal
- iii. _____

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

New Trial / Sentencing
Release from Incarceration

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

No

STATE OF SOUTH CAROLINA

County of Greenwood

VERIFICATION

I, Candice R. Beasley, 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.

Candice Beasley

SWORN to and subscribed before me this 12
 day of December, 2018.

Samir S. Dodson (L.S.)
 Notary Public

My Commission Expires: 10 30 2019

FILED
 2019 JAN 29 AM 9:41
 LISA M. COOPER
 CLERK OF COURT
 LFC-CLERK

2019CP3200407

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

I, Candice R. Beasley, 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.

Candice R. Beasley
Applicant

SWORN or affirmed to and subscribed before me this
12 day of December, 2018.

Sandra S. Dodson
Notary Public

My Commission Expires: 10 30 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	IN THE ELEVENTH JUDICIAL CIRCUIT
	)	
Candice R. Beasley, #365065,	)	Case No.: 2019-CP-32-00407
	)	
Applicant,	)	
	)	
v.	)	RETURN, PARTIAL MOTION TO
	)	DISMISS, AND MOTION FOR
	)	A MORE DEFINITE STATEMENT
State of South Carolina,	)	
	)	
Respondent.	)	

The State of South Carolina (Respondent), making its Return to the Application for Post-Conviction Relief filed on January 29, 2019, would respectfully show this Court:

I. Procedural History

Candice R. Beasley (Applicant) is presently incarcerated in the South Carolina Department of Corrections pursuant to orders of the Lexington County Clerk of Court. During its April 2015 term, the Lexington County Grand Jury indicted Applicant for infliction of great bodily injury upon a child (2015-GS-32-1050). During its June 2015 term, the Lexington County Grand Jury indicted Applicant for unlawful conduct towards a child (2015-GS-32-1393). Applicant was represented by Stephen L. Hudson, Esquire, and Assistant Solicitor Suzanne Mayes of the Second Circuit Solicitor's Office prosecuted the cases. On August 10, 2015, through August 12, 2015, Applicant appeared before the Honorable Doyet A. Early, III, and a jury, and was convicted after a jury trial on both charges. Judge Early sentenced Applicant to ten years' incarceration for each charge, with the sentences running concurrently, and with credit for time served.

On September 20, 2016, Mr. Hudson filed a Notice of Appeal on behalf of Applicant. Appellate Defender Lara Mary Caudy perfected the appeal, and Senior Assistant Deputy Attorney General Deborah R. J. Shupe represented the State during the appeal. On appeal, Applicant argued that “the trial court erred in denying her motion for a directed verdict because the record contain[ed] no evidence of great bodily harm.” State v. Beasley, No. 2018-UP-418, 2018 WL 5830937, (S.C. Ct. App. Nov. 7, 2018). The South Carolina Court of Appeals affirmed in an unpublished opinion. Id. The Remittitur was sent on November 27, 2018.

II. Factual History

At Applicant’s trial, testimony established that, on October 14, 2014, school officials discovered substantial injuries, including bruises and open wounds, on the body of a five-year-old kindergarten student (Victim), who was in Applicant’s custody. School administrators immediately contacted law enforcement and the South Carolina Department of Social Services (DSS). Photographs taken that day reflected numerous marks and bruises on Victim’s torso, arms, and legs, including some with open, bleeding wounds. Victim told authorities that Applicant inflicted the injuries by beating him with a jump rope. Victim described the jump rope and told authorities where it was located in the home. (Trial Transcript [TT], pp. 105-125, 181-202; State’s Exhibits 6-22 [Photographs]; Record on Appeal [R.], pp. 19-39, 95-116.).

A detective and a DSS investigator went to Applicant’s home that day to discuss Victim’s condition. Applicant denied inflicting, or even knowing about, Victim’s injuries. Applicant also denied having a jump rope in the residence, but gave consent for a search of the residence, during which the detective found a jump rope matching Victim’s description in the exact place Victim had indicated it was located. (TT, pp. 202-235, 265-288; R., pp. 116-149, 179-202).

Victim testified that, at the time at which the school officials discovered his injuries, he was residing with Applicant, who was his godmother, and Applicant's two sisters. Victim stated that the bruises and wounds reflected in the photographs happened when Applicant beat him with a jump rope multiple occasions, identified the jump rope discovered in Applicant's residence as the one she used to beat him, and stated that he did not feel safe in Applicant's residence. (TT, pp. 135-153, 179-180; R., pp. 49-67, 93-94).

Applicant testified that she never saw Victim's injuries prior to October 14, 2014, and that she had never beaten Victim with the jump rope. (TT, pp. 433-436; R., pp. 341-344). One of Applicant's sisters testified that she witnessed Applicant spank Victim with the rope on one occasion. (TT, pp. 439-445; R., pp. 347-353).

III. Application for Post-Conviction Relief

In her Application for Post-Conviction Relief, Applicant alleges that she is being held in custody unlawfully based on:

1. Ineffective Assistance of Counsel.
 - a. "Poor [r]epresentation by counsel including ineffective assistance during trial of case"
2. Actual innocence
 - a. "Incarceration of an innocent person, a clear violation of Applicant's constitutional rights."
 - b. "Applicant has maintained her innocence, but was wrongfully convicted . . ."

Applicant prays for relief as follows: "New Trial/Sentencing" and release from her incarceration.

Attached to this Return and incorporated by reference are the records of the Lexington County Clerk of Court regarding the subject convictions, the records from Applicant's direct appeal, Applicant's records from the South Carolina Department of Corrections, and Applicant's Post-Conviction Relief Application. Respondent reserves the right to amend this Return upon

receipt of any relevant materials.

IV. Response to Claims of Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, the 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. 441, 334 S.E.2d 813.

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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.

Strickland requires that trial counsel must be given leeway to make reasonable strategic decisions. No particular set of detailed rules for counsel’s conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. Strickland v. Washington, 466 U.S. 668, 688-689 (1984). “Representation is an art, and an act or omission that is unprofessional in one case

may be sound or even brilliant in another.” *Id.* at 691. Therefore, judicial scrutiny of counsel’s performance must be highly deferential. *Id.* at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel’s performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel’s trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992).

When an application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.” Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983). However, in this instance, Applicant does not provide any supporting information for her claim, and Respondent is unable to properly interpret Applicant’s allegations or provide a response. As to Applicant’s allegation of ineffective assistance of counsel, Respondent moves herein for a more definite statement so that it can effectively respond through an amended or supplemental return.

V. Actual Innocence

Applicant alleges in her Application that she is innocent. Respondent submits that this claim should be summarily dismissed for failing to state a cognizable claim upon which relief can be based. *See* S.C. Code Ann. §17-27-10 to -160. An applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;

4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

Because an application for post-conviction relief is not a substitute for a direct appeal of trial court error, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the overwhelming majority of cognizable claims fall under the broad umbrella of “ineffective assistance of counsel,” a contention under the Sixth Amendment to the Constitution of the United States. See Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (“Allegations of trial court error are not cognizable on PCR.”); State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494 499 (2005) (“Circuit courts obviously have subject matter jurisdiction to try criminal matters.”). Applicant’s allegations about her actual innocence do not support a cognizable claim for post-conviction relief under any of the statutory grounds. Post-conviction relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Therefore, Respondent moves for summary dismissal of Applicant’s allegations of her actual innocence pursuant to S.C. Code Ann. § 17-27-70(c) (2003).

VI. Motion for a More Definite Statement

Applicant’s allegations lack specificity or supporting facts. The Uniform Post-Conviction Procedure Act requires that the Applicant must “. . . specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a *prima facie*

showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.”

Applicant has failed to state with any specificity the specific facts giving rise to her allegation of ineffective assistance of counsel. Respondent therefore moves pursuant to Rule 12(e), SCRCP, to require Applicant to provide a more definite statement of her allegations of ineffective assistance of counsel and to require Applicant to file an amended application well in advance of the hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss this allegation or claim.

VII. Discovery Issues

Applicant must specify any claims she intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant is represented by counsel, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the post-conviction relief hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke

formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VIII. General Denial of Allegations

Each and every allegation contained within the Application not expressly admitted, qualified, or explained in this Return is hereby denied.

IX. Conclusion

WHEREFORE, Respondent requests that this Court require Applicant to amend her Application in order to provide a more definite statement and supporting facts as to the allegations specified herein, dismiss Applicant's allegations about her innocence, and convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR Z. SMITH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

May 16, 2019

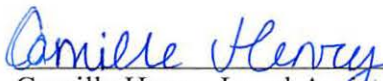
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
	)	2019-CP-32-00407
	)	
CANDICE R. BEASLEY, #365065	)	
	)	
Applicant,	)	
	)	
vs	)	CERTIFICATE 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, Partial Motion to Dismiss and Motion for More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Overture E. Walker, Esquire
 Stoney & Walker, LLC
 1527 Blanding Street
 Columbia, South Carolina 29201

DATED this the 16th day of May, 2019.


 Camille Henry, Legal Assistant
 For Respondent

1 State of South Carolina)
2 County of Lexington) In the Court
3 Candice R. Beasley,) Of Common Pleas
4 Applicant/Plaintiff,) Case No.: 2019-CP-32-00407
5 vs.) Transcript of Record
6 State of South Carolina,)
7 Respondent/Defendant.)
8 _____)

9

June 25, 2019

10

Lexington, South Carolina

11

12 BEFORE:

13 The Honorable Brooks P. Goldsmith, IV, Judge

14

15 APPEARANCES:

16

17 Overture E. Walker, Esquire
18 Attorney for the Applicant/Plaintiff19 Taylor Z. Smith, Assistant Attorney General
20 Attorney for the Respondent/Defendant

21 ALSO PRESENT:

22 Candice R. Beasley

23

24

25

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1 Thereupon, the following proceedings were had,

2 MR. SMITH: Your Honor, this is the case of Candice
3 R. Beasley v. State. Case number 2019-CP-32-00407. Ms.
4 Beasley is presently incarcerated in SCDC pursuant to
5 orders of committment of the Lexington County Clerk of
6 Court. During its April 2015 term the Lexington County
7 Grand Jury indicted Ms. Beasley for the infliction of
8 great bodily injury upon a child. During its June 2015
9 term the grand jury indicted her for unlawful conduct
10 towards a child. She was represented by Mr. Stephen L.
11 Hudson and Assistant Solicitor Suzanne Mayes of the
12 Solicitor's Office prosecuted the cases.

13 On August 10th, 2015 through August 12th Ms. Beasley
14 appeared before the Honorable Judge Doyet A. Early, III,
15 and a jury and was convicted following a jury trial on
16 both charges. Judge Early sentenced her to 10 years
17 Incarceration for each charge with the sentences running
18 concurrently. Your Honor, Ms. Beasley filed this
19 application for PCR in January of 2019 to which the State
20 filed a return which included the motion to dismiss to
21 Ms. Beasley's three allegations and a motion for more
22 definite statement.

23 Since that time Mr. Overture Walker who is here
24 today as Ms. Beasley's PCR counsel has provided an update
25 on Ms. Beasley's allegation and grounds by email. Before

1 we begin taking testimony, Your Honor, I ask that Mr.
2 Walker specify for the record the grounds upon which Ms.
3 Beasley would move forward today, and I'll point out the
4 allegations raised in the original application which was
5 ineffective assistant of counsel generally and, two,
6 allegations that we believe or tend to support a claim of
7 actual innocence.

8 Mr. Walker did put forth some additional claims to
9 us by email on June 11th which we are ready to move
10 forward on today, but we are just asking him to clarify
11 for the record before we begin.

12 THE COURT: All right. Mr. Walker.

13 MR. WALKER: Sure. May it please the Court, Your
14 Honor. Overture Walker, attorney for the applicant.
15 Your Honor, we agree that the State's recitation of the
16 procedural history and the grounds we are proceeding on
17 this morning for this application of PCR are as follows:
18 The first ground, Your Honor, is trial counsel's failure
19 to review discovery and/or the evidence in the case with
20 Ms. Beasley. Secondly, failure to move for a continuance
21 as evidence came in just a few days before the trial of
22 her case. Thirdly, failure to move for a mistrial after
23 there was acknowledgment by the trial judge regarding I
24 guess some of his facial expressions or reactions to some
25 of the witnesses that had been called during the trial.

1 We take the position that that may have influenced the
2 jury. And fourthly, Your Honor, is trial counsel's
3 failure to file a motion to reconsider.

4 So those are the grounds on which we are proceeding
5 at this point.

6 THE COURT: The fourth ground was what?

7 MR. WALKER: Failure to file a motion to reconsider
8 the sentence, Your Honor.

9 THE COURT: And then is the State ready to proceed?

10 MR. SMITH: Your Honor, we are, and we'll confirm
11 that those are the grounds that Mr. Walker gave to us on
12 June 11th.

13 THE COURT: All right. Mr. Walker.

14 MR. WALKER: Your Honor, we call my first witness
15 Ms. Beasley.

16 Thereupon,

17 CANDICE R. BEASLEY

18 after having been first duly sworn, testified as follows,

19 DIRECT EXAMINATION

20 BY MR. WALKER:

21 Q. Ms. Beasley, good morning.

22 A. Good morning.

23 Q. State your full name for the record please.

24 A. Candice Rene Beasley.

25 Q. Do you recall when you were arrested?

1 A. I do.

2 Q. Okay. Back up a little bit from the microphone.

3 A. (Witness complies.)

4 Q. All right. When were you arrested?

5 A. I was arrested at my home, our townhome.

6 Q. Date, time, month, and year?

7 A. It was 2015.

8 Q. What were you arrested for?

9 A. Unlawful conduct towards a child and great bodily
10 infliction.

11 Q. Would that be infliction of great bodily injury?

12 A. Yes, sir.

13 Q. Do you recall if you pled guilty or if you went to
14 trial?

15 A. I went to trial.

16 Q. What was the result at trial?

17 A. I was sentenced. They found me guilty and I was
18 sentenced to 10 years.

19 Q. Ten years on both charges?

20 A. Yes, sir.

21 Q. Was that concurrent or consecutive?

22 A. It was concurrent.

23 Q. Who was your attorney at trial?

24 A. Stephen Hudson.

25 Q. Is he present in the courtroom today?

1 A. He is.

2 Q. How did Mr. Hudson become involved in your case?

3 A. He was the family attorney that I had previously for
4 when I got custody of minor .

5 Q. Who is minor ?

6 A. He was my godson.

7 Q. Was he also the victim in the case during the
8 trial?

9 A. Yes, sir.

10 Q. And how long was Mr. Hudson your attorney on this
11 case?

12 A. Uhm, from the beginning. He took the case.

13 Q. Okay. Did you hire him or someone else hire him?

14 A. I did.

15 Q. How many times did you meet with Mr. Hudson over the
16 course of his representation?

17 A. We basically met when I was dropping off a payment
18 to him so maybe a few times.

19 Q. Is that once a month, twice a month, or once every
20 couple months? How frequent?

21 A. Every couple of months probably.

22 Q. Did he ever discuss the charges with you?

23 A. He told me what they were, that was it.

24 Q. Did he ever discuss, I guess, the indictments or the
25 elements of the offense against you --

1 A. No.

2 Q. -- with you? Okay. Did he ever discuss the
3 possible punishment for each charge with you?

4 A. No.

5 Q. Did he ever discuss with you the State's burden of
6 proving its case beyond a reasonable doubt if the case were to
7 go to trial?

8 A. I don't think that he thought the case was going to
9 go to trial.

10 Q. What makes you say that?

11 A. Nobody could believe that they were actually taking
12 it to trial so I don't think that he thought that we were
13 going to go there.

14 Q. Did he ever say that to you, express that to you?

15 A. That was the overall thought. Yes, sir.

16 Q. Let's get a little bit into as far as the
17 investigation of the case and I guess discovery. Did you and
18 Mr. Hudson ever review the discovery together in this case?

19 A. No.

20 Q. Did he ever offer you an opportunity to meet with
21 him? I mean an opportunity rather to review the discovery?

22 A. Basically I don't think that they actually sent him
23 the full discovery until the week of or like the weekend
24 before we went to trial.

25 Q. Okay. So is it your testimony that he wasn't

1 provided all of the discovery in the case until a week prior
2 to trial?

3 A. Correct. Yes, sir.

4 Q. Do you feel that he had enough time to review the
5 evidence that came in?

6 A. I don't.

7 Q. Do you feel like he had enough time to prepare your
8 case for trial?

9 A. I don't.

10 Q. Did y'all ever discuss any possible defenses to the
11 charges against you?

12 A. No, sir.

13 Q. Do you know if Mr. Hudson ever developed, I guess, a
14 theory or an opinion regarding the State's ability to prove
15 its case beyond a reasonable doubt?

16 A. No, sir.

17 Q. He never shared anything like that with you?

18 A. No.

19 Q. And as far as the decision to go to trial rather
20 than ask for a continuance, whose decision was that?

21 A. It was attorney Hudson's.

22 Q. Okay. Do you feel like that a continuance at that
23 time would have been in your best interest?

24 A. I do. He was sick so before we even went to trial
25 he had told me that he was sick and then that's when he told

1 me that they had gave him additional, or evidence that he had
2 just gotten that we hadn't gotten to look over. So yes, I do
3 believe a continuance would have helped greatly.

4 Q. Do you know what that evidence was that had just
5 come in?

6 A. I don't.

7 Q. Do you know if Mr. Hudson had an overall trial
8 strategy?

9 A. Not that we discussed.

10 Q. So he never discussed a trial strategy with you,
11 right?

12 A. No, sir.

13 Q. Now, at trial, do you recall putting up a case at
14 trial, the defense putting up a case?

15 A. He brought witnesses, yes, but not all of the
16 witnesses.

17 Q. So how many witnesses testified on your behalf at
18 trial?

19 A. I believe just one, my sister Chandra.

20 Q. Just Chandra. Okay. You said there was some
21 witnesses he did not call?

22 A. Yes. We had inquired about subpoenaing the day care
23 provider for minor. That was prior to him going to Seven
24 Oaks. Then also we questioned the DSS worker that had the
25 files for --

1 MR. SMITH: Objection, Your Honor, on the grounds of
2 relevance. These sound like questions that would support
3 a claim of failure to call witnesses at trial and I don't
4 believe that's a ground Ms. Beasley is moving forward on
5 today.

6 MR. WALKER: Well, Your Honor, we're not moving
7 forward on that ground, but certainly we reserve the
8 right to amend our pleadings that conform to the
9 pleadings if that's what comes out. I can assure you,
10 Your Honor, that this is not trial by ambush, but this is
11 the first time that I'm actually hearing that there were
12 witnesses who were not called so at this point I haven't
13 moved to amend the pleadings, but certainly she's
14 testifying that there were witnesses, a witness that was
15 put up on her behalf, but she also happened to mention
16 that there were some people that were not called so at
17 this point we haven't moved to amend our pleadings to
18 conform to the evidence, but certainly the Rules of Civil
19 Procedure apply and we reserve the right to do that. But
20 I'm always forthright as far as what grounds that are put
21 forward.

22 THE COURT: I'll overrule the objection. You may
23 proceed.

24 BY MR. WALKER:

25 Q. Okay. So continue on.

1 A. Yes. We had asked that the DSS worker that was
2 handling his case be subpoenaed as well.

3 Q. Okay. At trial for the witnesses that were called,
4 how were they received by the Court?

5 A. He made facial gestures, sounds. His body language
6 was just very --

7 Q. When you say, not to interrupt you, when you say
8 "he", who are you talking about?

9 A. I'm sorry. The judge.

10 Q. So the trial judge at that time?

11 A. Yes, sir.

12 Q. So I'm going to ask you the question again. How
13 were those witnesses received? Were they well received or not
14 well received?

15 A. No. Not well.

16 Q. Explain to the Court what you mean by the witnesses
17 were not well received?

18 A. When they were testifying, his facial expressions.
19 It was one of anger. He made sounds. Whenever the Solicitor
20 would ask a question, he would go (indicating.) You know,
21 just different verbal sounds that you could just tell that he
22 was not, that he had already come to a conclusion.

23 Q. All right. Do you know -- Well, did this happen in
24 front of the jury?

25 A. Yes, sir.

1 Q. So you're pretty confident the jury noticed the
2 judge's reactions?

3 A. Yes. He mentioned it twice. It was brought to his
4 attention and he mentioned it twice that they not pay
5 attention to his actions.

6 Q. Okay. And did you mention this to your lawyer as
7 well?

8 A. I did.

9 Q. What was Mr. Hudson's response?

10 A. He didn't do anything.

11 Q. Did he move for a mistrial?

12 A. No. He did not.

13 Q. Did he tell you why he didn't move for a mistrial?

14 A. No. He did not.

15 Q. Do you believe that your case would have had a
16 different outcome had your attorney moved for a mistrial?

17 A. I definitely do.

18 Q. What was the outcome at trial?

19 A. I was sentenced, I was found guilty and sentenced to
20 10 years.

21 Q. Prior to your conviction on these charges, did you
22 have a criminal history at all?

23 A. None at all.

24 Q. And did Mr. Hudson file a motion to have your
25 sentence reconsidered?

1 A. Not that I'm aware of. No.

2 Q. Do you believe that there was a reasonable
3 probability of your sentence getting reduced had Mr. Hudson
4 filed a motion to reconsider?

5 A. Yes. I do.

6 Q. And the relief that you are asking this Court today,
7 are you asking the Court to vacate the sentence that you
8 received at trial and have this matter remanded for
9 resentencing?

10 A. Yes, sir.

11 MR. WALKER: Okay. Answer any questions that the
12 State has for you, okay?

13 THE WITNESS: Okay.

14 MR. SMITH: Thank you.

15 CROSS EXAMINATION

16 BY MR. SMITH:

17 Q. Ms. Beasley, you testified that you only met with
18 your attorney how many times?

19 A. It was a couple when I was dropping off payment the
20 majority of the time.

21 Q. Okay. Was it during these meetings when you brought
22 up with him that you wanted the DSS case worker subpoenaed?

23 A. Yes.

24 Q. Okay. But you don't know -- You also testified that
25 the State sent some discovery days before trial; is that

1 right?

2 A. That's what I was told. Yes.

3 Q. But you don't know what was in this supposed
4 discovery, right?

5 A. I was told that it was some more files I believe
6 from DSS if I remember correctly, like the rest of the
7 evidence that the Solicitor had.

8 Q. And I believe you testified earlier that Judge Early
9 during your trial made facial expressions on how many
10 occasions?

11 A. He made them several times throughout the case, but
12 he actually told the jury to not pay attention to his facial
13 expressions or his gestures twice.

14 Q. Can you tell me exactly at what point in the trial
15 he made these gestures or expressions?

16 A. The majority of the time it was when my witness was
17 on the stand. It was also when they were showing --

18 Q. Which witness?

19 A. Chandra Beasley.

20 Q. Okay. All right.

21 A. It was also when they would show like different
22 pieces of evidence, he would make facial gestures then or
23 sounds then as well.

24 Q. Which pieces of evidence?

25 A. They had showed pictures and that kind of thing and

1 he did it as well then.

2 Q. Who is "they"?

3 A. The Solicitor.

4 Q. Okay. So you testified a few minutes ago, I
5 believe, that it happened on two occasions, but now you're
6 saying it was more than two?

7 A. No. I testified that he told the jury to not pay
8 attention to his actions on two different occasions.

9 Q. Your attorney did file some motions for you after
10 trial though, right?

11 A. Not that I'm aware of.

12 MR. SMITH: Your Honor, may I approach?

13 THE COURT: Yes. Sure.

14 BY MR. SMITH:

15 Q. Okay. Ms. Beasley, I'm gonna show you a document
16 and I'm gonna ask you to identify certain portions of it.
17 Will you identify the date on that document?

18 A. November 3rd, 2015.

19 Q. Will you please read the caption here?

20 A. Transcript of record 2015-GS-32-1015,
21 2015-GS-32-1393.

22 Q. And it indicates that this is a transcript from a
23 hearing before Judge Early?

24 A. Yes.

25 Q. It also indicates that Ms. Suzanne Mayes and

1 Mr. Stephen Hudson were present?

2 A. Correct.

3 Q. Under his name does it indicate that he was present
4 on behalf of the defendant?

5 A. It says that he was the attorney for the defendant.
6 Yes.

7 Q. Okay. This is State v. Candice Beasley?

8 A. Yes, sir.

9 Q. Okay. Were you present at this hearing?

10 A. No. I was not.

11 Q. Okay. All right. I'm going to ask you to please
12 start reading, if you will look at page 4, about line 21, and
13 read through line 7 on page 5.

14 A. At the conclusion of the trial I gave counsel,
15 instead of making any post trial motions, I gave him an option
16 to or ten days to file any written motions so he could
17 obviously have time to reflect on what all had happened and to
18 not have to shoot from the hip so the speak and timely he
19 filed a notice of motion, a motion for new trial and other
20 post trial motions and they were set I think a couple of weeks
21 ago when we had the heavy rains and the damn broke and all the
22 court was cancelled that week if I recall correctly.

23 Q. What does Mr. Hudson say on line 7?

24 A. That is correct, Your Honor.

25 Q. Okay. So you weren't aware that Mr. Hudson did, in

1 fact, make post trial motions for you?

2 A. No. He did never discuss that I don't believe other
3 than me having my first court trial.

4 Q. So you weren't here at all that day?

5 A. Not that I remember.

6 Q. Okay. So if we look on page 5 when the Court says,
7 Ms. Beasley, good morning, and it has defendant on line 16,
8 what does that say?

9 A. Good morning. Again, I don't remember this.

10 Q. Okay. But you're not disputing that you were there
11 now?

12 A. No. I don't remember coming back.

13 Q. Okay. You forgot all about this? You forgot about
14 this hearing?

15 A. Yeah. I don't remember that one.

16 MR. SMITH: Okay. Thank you. Your Honor, I have no
17 further questions now.

18 THE COURT: Redirect?

19 MR. WALKER: No further questions, Your Honor.

20 THE COURT: You may step down, Ms. Beasley.

21 MR. WALKER: The applicant calls as its next witness
22 Ms. Kimberly Beasley.

23 Thereupon,

24 KIMBERLY BEASLEY

25 after having been first duly sworn, testified as follows,

1 DIRECT EXAMINATION

2 BY MR. WALKER:

3 Q. Good morning, Ms. Beasley.

4 A. Good morning.

5 Q. State your full name for the record.

6 A. Kimberly Latrice Beasley.

7 Q. How do you know Ms. Candice Beasley?

8 A. She's my little sister.

9 Q. Were you present for your sister's trial?

10 A. Yes.

11 Q. Were you able to observe -- Well, were you present
12 for the entire trial?

13 A. Yes.

14 Q. Were you able to observe the Court's reaction to
15 various witnesses that were called to testify?

16 A. Yes.

17 Q. And would that be witnesses for both the State and
18 witnesses that were called to testify on your sister's
19 behalf?

20 A. Yes. Other than when they had me step out to be
21 called in.

22 Q. Sure. And why don't you share with the Court as far
23 as what you observed in terms of reaction to certain
24 witnesses?

25 A. He gave a lot of sighs.

1 Q. When you say "he", who are we talking about?

2 A. The judge.

3 Q. The trial judge?

4 A. The trial judge. He gave a lot of sighs, just
5 grunts, things of that nature, his facial expression or
6 shaking of his head, especially when the Solicitor brought out
7 pictures and things of that nature he would shake his head and
8 then he also - it was just really weird for me to see a judge
9 do that because I thought they were supposed to be
10 impartial.

11 Q. The grunts, the sighs, and the shaking of the head,
12 was that in response to Ms. Beasley's witnesses or the State's
13 witnesses?

14 A. The State's witnesses.

15 Q. In response to the witnesses called by the State?

16 A. Mm-hmm.

17 Q. What about response to witnesses called by Ms.
18 Beasley?

19 A. It was a lot of sighs.

20 MR. WALKER: No further questions. Answer any
21 questions that the State has for you.

22 CROSS EXAMINATION

23 BY MR. SMITH:

24 Q. Ms. Beasley, can you remember at what portions of
25 the trial Judge Early was allegedly making faces and

1 sighing?

2 A. He made them a lot, but when the pictures were
3 brought out, they brought out evidence of the jump rope. When
4 minor was brought out as well.

5 Q. Okay. Did he make any sounds or expressions while
6 you were testifying?

7 A. I can't remember.

8 Q. Okay. So it only happened when he was looking at
9 pictures or minor?

10 A. And when my sister was testifying, my sister
11 Chandra.

12 MR. SMITH: Thank you. No further questions, Your
13 Honor.

14 MR. WALKER: Nothing on redirect.

15 THE COURT: Thank you. You may step down.

16 MR. WALKER: Your Honor, I believe that Ms. Beasley
17 said she has another obligation or something. If she
18 could be excused.

19 THE COURT: Without objection, certainly.

20 MR. SMITH: No objection.

21 THE COURT: Yes, ma'am. You may be excused. Call
22 your next witness?

23 MR. WALKER: The applicant rests.

24 THE COURT: The applicant rests.

25 MR. SMITH: Your Honor, the State calls Mr. Stephen

1 Hudson to the stand.

2 Thereupon,

3 STEPHEN HUDSON

4 after having been first duly sworn, testified as follows,

5 DIRECT EXAMINATION

6 BY MR. SMITH:

7 Q. Mr. Hudson, will you tell us where you work?

8 A. The Law Offices of Stephen Hudson, Columbia, South
9 Carolina.

10 Q. How long have you been practicing law?

11 A. 28 years.

12 Q. How much of that time has been spent in criminal
13 defense?

14 A. About 40 percent, maybe less.

15 Q. Can you tell me how you became involved in Ms.
16 Beasley's case?

17 A. I became involved with Ms. Beasley when she
18 approached me to assist her with getting custody of a godchild
19 of hers.

20 Q. Okay. And was that child the victim in her criminal
21 case?

22 A. The alleged victim, but yes. That was the same
23 child. And basically it was through my Family Court work
24 which is the majority of what I do.

25 Q. And then from your involvement with them in that

1 case how did you become involved with her in her criminal
2 defense case?

3 A. She approached me when she was charged and then I
4 agreed to work with her in her defense of the criminal case.

5 Q. Okay. How soon after her arrest did she approach
6 you, do you know?

7 A. I'm not sure when. It was probably right away. It
8 was probably contemporaneous, as soon as she could get word to
9 me.

10 Q. Now, when she hired you, do you remember how many
11 times you met with her over the course of your representation
12 of her?

13 A. I don't recall the actual number of times I met with
14 her. Our communication was such that if I needed to see her,
15 she would come in or she would come in when she would drop off
16 a payment and we would speak. We would talk on the phone a
17 lot and we exchanged emails, communications with Candice and
18 with her two sisters that lived here in Columbia, but I do
19 distinctly, and I checked my calendar just to confirm before
20 we went to court and after we received certain information I
21 had a sit down with her on July the 23rd, 2015.

22 Q. How much time passed between when she was arrested
23 and then hired you and her trial?

24 A. It was nine months. I think she was arrested in
25 November 2014 and we went to trial August of 2015 and that was

1 the second time the case was called to trial. It was first
2 called July the 23rd, 2015 to trial. No. Excuse me. July
3 27th.

4 Q. Okay. During the course of those nine months, would
5 you say that you met with her at least once a month, a couple
6 times a month?

7 A. I don't want to put an exact number to it, but we
8 meet and we met, it wasn't in the conventional way because
9 during that time we were called to appearances here in
10 Lexington County so we would meet and speak at the appearances
11 and that was happening on a monthly basis. She would come
12 into the office and make payments and if I was there, I would
13 certainly speak with her. We exchanged emails and phone calls
14 throughout that nine month period.

15 Q. Did you ever have instances where she was trying to
16 get in touch with you but you weren't available?

17 A. I don't recall. I mean, if she called and I wasn't
18 there, I would call back.

19 Q. Okay. Did you file for a motion for discovery in
20 this case?

21 A. Yes. We did.

22 Q. Did you receive discovery from the State?

23 A. The State issued their discovery and just reviewing
24 it, sometime about July the 8th and July the 10th, two days
25 they issued the discovery of that year 2015, July 8th and 10th

1 of that year. So it was roughly about a month before we
2 actually went to trial.

3 Q. Okay. Was there more than one disclosure in the
4 case? So, for example, did they give you discovery in
5 multiple batches or was it all at one time?

6 A. I think it came in two separate batches. From the
7 State we received their information July the 8th and July the
8 10th and I met with Ms. Beasley July the 23rd.

9 Q. Okay. Before that time were you aware generally of
10 the State's accusations against her?

11 A. Before when now?

12 Q. Before you received that discovery in July?

13 A. I was involved with her case since November the
14 previous year so yeah, we knew the allegations.

15 Q. What kind of things were in the State's discovery
16 disclosure?

17 A. I mean, they had pictures. They had statements from
18 the doctors and forensic. There were a couple of things that
19 I wanted to find on my own that I needed to get not from the
20 State but from another state agency. The State didn't have
21 this information. The Department of Social Services did so we
22 sent out a subpoena to the Department of Social Services in
23 early July and they had not complied with it so we filed, I
24 filed a request.

25 Let me back up. When the matter was called for

1 trial July the 27th, Judge Jefferson from Charleston was the
2 judge. We made her aware of the difficulty in getting the
3 information from DSS as well as my desire to have the child,
4 the alleged victim examined to see if he had the ability to be
5 truthful at trial or to be a witness at trial because of his
6 age. She granted that request that it be continued. That
7 wasn't on the record. We met with her in chambers. She said
8 continued to the next term. The problem with the next term
9 was that it was exactly two weeks later. So again we went
10 into the hearing to approach the judge which I did and I asked
11 him to continue that matter. Now, we did receive because we
12 had to file a request that they compel DSS to give me that
13 information and so we got it, that request was honored August
14 the 7th, 6th or 7th and the trial started August the 10th.

15 Q. So when we talk about discovery disclosure from the
16 State, you're referring to the Solicitor's Office?

17 A. That's correct.

18 Q. Okay. The evidence that you received what you're
19 saying about two weeks before when the trial was actually
20 held, was that information you received subject to your
21 subpoena or from the Solicitor's Office pursuant your
22 discovery motion?

23 A. I'm not sure if I understand what you're asking.
24 The information I received, these are the dates. From the
25 State, that was July the 8th and 10th of 2015. That was from

1 the Lexington County Solicitor's Office. The additional
2 information that I wanted was from the South Carolina
3 Department of Social Services of Lexington County. That
4 information did not get to me until August 6th or 7th, that
5 Thursday or Friday, the weekend going into the trial.

6 Q. Okay. But DSS was the source of that evidence?

7 A. That's correct. DSS was the source of that evidence
8 and if I can just kind of make it just to be as clear as
9 possible, there were two issues that Ms. Beasley had to deal
10 with. One was an allegation of abuse and neglect brought by
11 the South Carolina Department of Social Services. She had a
12 different attorney for that. She was appointed an attorney
13 who I spoke with, who I communicated with, who I tried to
14 figure out what they were doing in that case and where they
15 were headed in that case and even tried to get information
16 from him concerning her file. He had no information to give
17 me. He just didn't make it available. I'm not sure if he
18 ever requested a copy of the file. I don't know. But he did
19 not have it and that matter was resolved when I think Ms.
20 Beasley accepted a finding of physical abuse and neglect.

21 So knowing that there was something out there, I
22 wanted to take a look at it so I then not being the attorney
23 in that matter could not just simply write a letter to DSS and
24 get the file, the rules say you can when you're the attorney
25 in an abuse and neglect case, I have to send them a subpoena.

1 So I subpoenaed the information from DSS in early July to get
2 ready for a July 27th trial. It did not come. We then filed,
3 I saw it, but it may not have been in the transcript, the two
4 filings were to request that the child be interviewed and the
5 request that the subpoena be, to enforce the subpoena on the
6 Department of Social Services, DSS.

7 Q. Okay. So we can come back to the discovery issue,
8 but also during your meetings with Ms. Beasley, did you go
9 over the offenses she was charged with?

10 A. We talked about the offenses. We talked about, I
11 know we spoke about the offenses, the elements. We talked
12 about possible defenses, her position as to what it is in
13 terms of how we were going to approach this and I do
14 distinctly remember that one of the things we talked about and
15 that's what we were looking for in the DSS file was could this
16 child have done this to himself. We talked about that a
17 lot.

18 Q. Okay. So what was the defense she wanted to use?

19 A. Well, I mean, she and I talked about possible
20 question of were there other individuals who had access to the
21 child who could have done this to him. Her position was
22 always that she did not do it. Her position was that she had
23 never spanked the child with the jump rope. So taking that as
24 her position my belief was you have to show that there was
25 somebody else who could have done it. So we were arguing and

1 trying to present evidence that she didn't live alone. There
2 were two other adults in the house. The child had access to
3 school teachers and administrators and counselors at school
4 and that the child himself could have caused his harm and his
5 injuries.

6 Q. So out of that came your issuance of the subpoena to
7 DSS?

8 A. Yes.

9 Q. Okay. What did you believe or hope was in the DSS
10 file that would have helped her with that defense?

11 A. Something that would indicate that the child was a
12 self mutilator or the child somehow caused damage or injury to
13 himself.

14 Q. Did you receive that information from DSS?

15 A. I received a copy of their file. That specific
16 information I did not see. I did not see any indication that
17 the child, or that they, the agency ever pursued that avenue
18 concerning whether or not anybody else could have or the child
19 could have injured himself.

20 Q. Okay. So what you are saying is you issued that
21 subpoena because you didn't believe that that information
22 would have been in the Solicitor's file?

23 A. It wasn't. It wasn't in the Solicitor's file.

24 Q. Do you have any reason to believe that the
25 Solicitor's file contained information that you did not

1 receive?

2 A. No. No.

3 Q. Okay. And so correct me if I'm wrong. The
4 Solicitor's second discovery disclosure came about a month
5 before Ms. Beasley's eventual trial date?

6 A. About a month before the eventual trial date; that
7 is correct.

8 Q. Did you review that information when it came in?

9 A. I did.

10 Q. Did you discuss that with Ms. Beasley?

11 A. That had to have been what the January 23rd
12 appointment in my office was about. I had to go back and just
13 take a look at my calendar to see when it was we met, when did
14 she come in, and there was a sit down with Ms. Beasley on July
15 the 23rd.

16 Q. And that was after this second disclosure from the
17 Solicitor's office came in?

18 A. That is correct.

19 Q. Okay. Is it your normal practice, do you go over
20 all discovery disclosures with your clients?

21 A. It is my general practice to go over all of the
22 discovery with my client. As for the information that we
23 received from DSS I don't think I had a chance to go over it
24 with her. I got to do that myself over the weekend.

25 Q. That was the discovery -- That was the evidence

1 that came in immediately before trial?

2 A. Right. But that was from the Department of Social
3 Services and not from the State.

4 Q. Okay. From your review of that was there anything
5 in there that would have helped Ms. Beasley's defense at
6 trial?

7 A. Whatever was in there that we thought could help I
8 thought to use it. I mean, there was nothing that sounded any
9 alarms that led me to the conclusion that I was looking for.
10 We reviewed it. It wasn't really helpful in terms of her
11 defense. It didn't change the strategy at all.

12 Q. Did you ever -- So you're saying that came in right
13 before trial. So you're saying also that you didn't sort of
14 have a sit down office meeting about that disclosure from
15 DSS?

16 A. Not about that. I obviously - I think I spoke with
17 Candice. One of the things we were, that I was depending upon
18 was the Court's understanding that this information just got
19 to us and we needed more time to deal with it so we asked the
20 judge as we did the first time in chambers to have this matter
21 continued over to the next term of court and he refused to do
22 it. And I think and I'm reminded of this, I approached him
23 just before the start of the case once again. I approached
24 the bench once again. That had to have been to request a
25 continuance.

1 Q. Okay. Did you get a chance to just talk about it
2 with Ms. Beasley at all about what was in the DSS file or your
3 opinions?

4 A. If I did, it would have been during the time between
5 August the 10th and 12th. I saw her everyday while we were
6 sitting there going through a trial together.

7 Q. Okay. So you asked the Court for a continuance you
8 said?

9 A. I'm almost certain we asked him for a continuance
10 just as we did with Judge Jefferson.

11 Q. What was the purpose of your continuance request?

12 A. Just more time. We needed more time to absorb the
13 information, more time to see if there was any additional
14 witnesses that we needed. I don't know if the results would
15 have changed, but I do think that it was - more time is always
16 better.

17 Q. Okay. Was there anything in the DSS file that you
18 believe was essential for you? Was your request -- Let me
19 rephrase that. Was your request for a continuance out of
20 general desire to have more preparation or investigation time
21 or because you believed there was something in the DSS file
22 that you had just received that was essential to the case?

23 A. It was out of a general request to have more time.

24 Q. Okay.

25 A. I reviewed the file over the weekend. Like I said,

1 I didn't necessarily see anything that I wanted to need or I
2 had access to a private process server if I needed to serve
3 subpoenas which we did serve a subpoena on one witness I know
4 to make sure that they were at trial, but I didn't see
5 anything that rose to that level.

6 Q. Okay. Like you said more time was always better?

7 A. More time is always better. Absolutely.

8 Q. Okay. Let's get to the trial more specifically.
9 Did you work with Ms. Beasley for trial preparation in
10 discussing strategy at trial?

11 A. I guess it wasn't laid out in those terms, but she
12 provided a list of witnesses, individuals that she wanted me
13 to speak with and we tried to speak with as many of those
14 individuals as possible and I believe I spoke to almost
15 everyone she had asked me to speak with.

16 Q. Did one of those witnesses include a DSS case
17 worker?

18 A. Well, we met with the DSS officers to review the
19 file. There was a DSS representative who showed up and
20 testified on behalf of the State so I'm not sure exactly which
21 caseworker she wanted me to subpoena, but there was a
22 representative who showed up from DSS to testify on behalf of
23 the State.

24 Q. At trial you did call several witnesses, right?

25 A. We did call, we subpoenaed several individuals to be

1 here. We called, I know we called Ms. Beasley. We called her
2 sister. We called a teacher of the child. That testimony
3 didn't go the way I thought it should have gone so I
4 immediately told Candice as soon as we had an opportunity we
5 weren't calling anymore of those individuals from the school,
6 but we had them here. They were here. And just for
7 clarification, the State called the second sister Kim, so both
8 sisters testified. The State called, I'm just kind of
9 recalling, the State called Kim so we had Kim as a witness.
10 She was on our list and theirs. The sister Chandra we called
11 and then Candice testified.

12 Q. Okay. And you did attempt to utilize the teachers
13 though in your case. What was the hope, what was it that you
14 hoped to get from the teachers?

15 A. There was a history of constant conduct reviews and
16 reports concerning the child. Just to see if there was a
17 possibility that this child had emotional issues, acted out,
18 was violent and could have caused damage to himself.

19 Q. Okay. And so the testimony you hoped to get from
20 them would have been, you were hoping would have conformed to
21 Ms. Beasley's defense at trial?

22 A. Right.

23 Q. Okay. Do you recall Judge Early making any
24 remarkable facial expressions during trial?

25 A. I don't recall that. Uhm, the only thing I'm

1 reminded I guess is when Ms. Beasley just testified that it
2 was brought to his attention. That's what she said earlier
3 just a moment ago. I'm sure if she brought it to my
4 attention, I brought it to his and he did mention, I guess, in
5 his instructions to the jury about his facial expressions, but
6 I didn't see anything other than that if Candice and/or her
7 family brought it to my attention, I brought it to judge's
8 attention.

9 Q. Do you remember if she brought it to your attention
10 or not?

11 A. I don't have an independent recollection of it.

12 Q. Do you remember addressing the issue with Judge
13 Early?

14 A. I don't recall addressing it with him. My
15 recollection was that there was nothing that would rise to the
16 level of having alarmed me, but if it was brought to my
17 attention by either my client or her family, I probably made
18 the judge aware.

19 Q. Okay. Do you remember whether or not the Solicitor
20 brought it up at all?

21 A. I don't recall that the Solicitor brought it up.

22 Q. Okay. And when you say you think Judge Early
23 brought it up, do you remember what part of the trial that
24 would have been?

25 A. It may have been in the instructions to the jury.

1 Q. Do you know in what context that may have been
2 given?

3 A. Just if he brought it up, and there again, I don't
4 have an independent recollection of it, but if he brought it
5 up and he said it, it would have just been when you give
6 instructions to the jury, the judges sometimes give examples
7 of things that they want them to consider or not consider.

8 MR. SMITH: Your Honor, may I approach the witness?

9 THE COURT: You may.

10 BY MR. SMITH:

11 Q. I'm going to hand you up a document. Will you
12 confirm, please, that this is the trial transcript from Ms.
13 Beasley's case?

14 A. That looks like the transcript of the record.
15 Yes.

16 Q. Okay. If we look at around page 495, at this point
17 in time will you agree with me that Judge Early is giving jury
18 instructions here? And feel free to flip back, if necessary.

19 A. It looks like as if this is the jury instructions,
20 yes.

21 Q. Okay. I'm going to direct you to page 495. If you
22 will begin reading at the end of line 9 and read through
23 perhaps to the end of the page.

24 A. One moment please. (Witness complies.) It's all
25 admissible under the rules of evidence, but it's up to you to

1 decide what evidence is true and because you are the judges of
2 the facts, you're the most important judge in this courtroom.
3 Please remember that during the trial of this case I'm only
4 the judge of the law so if at any time during the trial of the
5 case you've seen me smile or frown or chew on my glasses or
6 roll my eyes or sigh or act like I'm board or happy, I'm
7 listening to cases all week long every week. I cannot have an
8 opinion on the facts. The law does not allow me to do that so
9 please don't infer. If I have done anything that makes you
10 think I have an opinion, set that aside. I can't have an
11 opinion so please, please don't let anything that I have done
12 in this case infer that I have an opinion.

13 That's the end of the page.

14 Q. Okay. Is there anything in that that you would have
15 taken at the time as an indication that the judge had made
16 facial expressions that were prejudicial during the trial or
17 do you believe he was just giving examples of the kinds of
18 things the jury would disregard?

19 A. Well, at the time I thought it must have been just
20 giving examples of things the jury should disregard.

21 Q. If you had seen him make any kind of prejudicial
22 facial expressions or anything that, would you have brought it
23 to his attention or move for a mistrial?

24 A. You have asked two questions. Because I think the
25 first one is what, in fact, may have happened. It was brought

1 to his attention. There was no motion for a mistrial because
2 I didn't think it rose to the level of so damning the jury
3 that they couldn't reach a fair and honest decision in this
4 case.

5 Q. Again, you don't have any memory of something like
6 that happening?

7 A. I don't have any recollection of any facial ticks or
8 frowns or anything that he did that would have caused me any
9 alarm but like I said, if it was brought to my attention, I
10 brought it to his.

11 Q. Okay. Tell me a little bit about the post trial
12 motions you filed in this case.

13 A. The judge did give us ten days, gave me ten days to
14 file my motions. I filed basically two motions. One was a
15 request for directed verdict in that there was not sufficient
16 evidence produced to show that there was serious bodily injury
17 to the child. That relates back to something that the judge
18 had done earlier in the trial when part of the allegations or
19 charge had to do with leaving permanent scars or permanent
20 disability of the child. There was no evidence to support
21 that and the judge, he either gave a charge and then told the
22 jury to disregard that portion of it, but he did, in fact, on
23 behalf of the defendant either limited the jury's ability to
24 consider the entire language of the charge, he did indicate
25 that there was no evidence presented that would lead you to

1 believe that there was any permanent damage or injury to the
2 child. So the second motion had to do, I think the second
3 part of the motion was, that was the one to dismiss based upon
4 no proof of physical great serious bodily injury and the
5 second was -- I apologize. Let me see if I can --

6 Q. I have a copy of the transcript if you would like to
7 refer to that.

8 A. If you have it. I know I saw it briefly but... Oh,
9 it was concerning one of the witness' testimony; that the
10 witness was bolstering another witness' testimony. That was
11 the officer's testimony. I was moving to strike that
12 testimony.

13 Q. Okay. I believe that's right in there. In those
14 post trial motions did you file a motion to reconsider the
15 sentence?

16 A. I had not filed a motion to reconsider the
17 sentence.

18 Q. Did Ms. Beasley ask you to do so?

19 A. No. She never did. This is -- I considered it and
20 this is my train of thought. I met with Candice while she was
21 in the Department of Corrections in December. I met with her
22 to sign some paperwork in terms of appeal and appeal work that
23 going to be done on her behalf. I didn't do it. I began and
24 set it up to preserve the appeal. It was done by the South
25 Carolina Appellate Office.

1 One of the things that I felt was necessary when you
2 file a motion like that was to have the individual be in a
3 position to say, to take responsibility; that they have
4 learned their lesson; that they have done the thing, to show
5 some contrition. In my practice if a person is innocent and
6 believe themselves to be innocent, not to be the one to try to
7 twist their arms, to avoid something like this, I don't want
8 to be the one to say to Candice you need to plead guilty. You
9 need to say that you did something when you in your heart
10 don't believe you did it. So that's why that motion wasn't
11 filed.

12 The other thing was once the appeal ran its course
13 and once we have had a chance to even do a PCR, I fully
14 intended to approach her or her family again about to bring it
15 up before the court. But one of the things it would have to
16 be, it's in mitigation. I mean, I didn't realize until I was
17 reviewing this file that it's been four years already.

18 Q. So, I mean, correct me if I'm wrong, but I'm trying
19 to interpreter what you're saying. Are you saying that you
20 generally believe that in order for a motion like that to be
21 successful there has to be some showing of contrition or
22 acceptance of responsibility?

23 A. I believe it would help. So yes, sir. And I was
24 trying to determine from Candice whether her position was such
25 that she, would it be beneficial to her. Other than get her

1 out of prison absolutely. I think certainly for that. But
2 whether it would be effective or not, I'm not sure that it
3 would have been effective until she was able to actually say
4 that she did something and I wasn't in a position to try to
5 convince her to say something, to say she did something when
6 she believed she did not do it and quite frankly I'm right
7 there with her. If she didn't do it, then that's the position
8 I'm going to take. She didn't do it.

9 MR. SMITH: Thank you, Mr. Hudson. No more
10 questions, Your Honor.

11 THE COURT: Mr. Walker.

12 MR. WALKER: Thank you, Your Honor. May it please
13 the Court.

14 CROSS EXAMINATION

15 BY MR. WALKER:

16 Q. Good morning, Mr. Hudson.

17 A. Good morning.

18 Q. Mr. Hudson, you testified earlier that I believe you
19 and Ms. Beasley would meet, I guess, in the most
20 unconventional ways is sort of the way you put it?

21 A. We would meet both conventionally and
22 unconventionally, but we would meet. Yes, sir.

23 Q. Sure. And usually the meetings you said would take
24 place at court appearances or whenever she dropped by the
25 office; is that correct? Most of the meetings?

1 A. Yeah. I mean, the meetings, the face-to-face and
2 office meetings or the face-to-face meetings, yes, would take
3 place like that. But generally every time there was an
4 appearance, we would have a phone conference. We spoke on the
5 phone often so we met by telephone probably more than we met
6 face-to-face, but we did meet. It's just how would you define
7 conventional.

8 Q. Sure. Understood. So I guess you would say that
9 these meetings encompassed telephone conversations or
10 telephone conferences rather or either in your office when she
11 would drop by or in court for appearance?

12 A. And exchanging of emails. Yes, sir.

13 Q. Were these meetings, were they pretty short, these
14 discussions rather short?

15 A. I guess you could describe them as short if you're
16 meeting before you go into an appearance or right after
17 appearance. If you're coming in, you sit down, you ask how
18 it's going. What's going on. When we met on the 23rd to get
19 ready for the July 27th matter, that may have been probably
20 the longer of the meeting, the more structured meeting.

21 Q. Sure. Sure. But prior to that we aren't having
22 long meetings where there is substantive discussions about the
23 case?

24 A. We are not having long meetings where there is
25 substantive discussions about the case in my office, but we

1 are discussing this case constantly and when I say we are
2 discussing it constantly, Candice and her sisters were always
3 in contact and I'm not saying that - that's a good thing
4 because when either of her sisters had a question, they
5 approached me and I tried to address their issues, their
6 concerns. When they had, believed they received information
7 about a possible witness, the State would call, they shared
8 that with me. So I think that they were substantive in
9 nature. They were informative. They weren't like on the
10 clock an hour, 45 minutes, but they were relatively consistent
11 and constant contact either by phone call, emails, or when she
12 would come in.

13 Q. And between July the 8th and July the 10th you
14 received two batches of discovery from the State?

15 A. I believe that is correct. Yes.

16 Q. That would have been approximately one month prior
17 to the trial of the case?

18 A. One month prior to the ultimate date of trial, but
19 it was less than that concerning the first time the State
20 attempted to call this case.

21 Q. Any reason why the State took so long to get
22 discovery to you?

23 A. I'm not sure.

24 Q. All right. And did you feel like you had enough
25 time to adequately prepare for trial after receiving

1 discovery?

2 A. Well, because we were asking for a continuances you
3 would almost think that the answer to that question would be
4 no, but we asked for the continuance because of that. This
5 case came to trial from like I said I think she was charged
6 November, it came to trial in August. That's a period of nine
7 months. The discovery was given in July and the case was set
8 to be called July the 27th. We then raised that issue with
9 Judge Jefferson on the 27th. She then granted that
10 continuance. We raised it again before Judge Early. He
11 failed to grant the continuance.

12 Q. So the trial judge thought you had enough time to
13 prepare, but you disagreed with that obviously?

14 A. I read through both the discovery from the State and
15 the subpoenaed information that I actually had to go over to
16 the agency and photocopy it, sat there and photocopied the
17 information, read through it over the weekend. I would have
18 certainly would have preferred to have more time. I don't
19 think I made any bones about that.

20 Q. Is it fair to say, Mr. Hudson, that you certainly
21 wouldn't have asked the Court for a continuance in the case if
22 you didn't think you needed more time to be prepared; is that
23 correct?

24 A. I would not have asked them anything that I didn't
25 think wasn't necessary. Right.

1 Q. Okay. When you met with Ms. Beasley on July the
2 23rd, that was how many weeks before the trial when you meet
3 with her in July?

4 A. We're talking about days.

5 Q. A few days before the trial?

6 A. The 23rd was about four days before the 27th and
7 that was about two weeks before the ultimate date of the trial
8 so we're talking about maybe 21 days, about three weeks.

9 Q. And you felt like that was enough time to meet with
10 her to get prepared for trial?

11 A. It was what we had. I think she's accurate. One of
12 the things we were going to do and what we did was we asked to
13 have it continued to the next term.

14 Q. In fact, you mentioned earlier about Judge Jefferson
15 granted a continuance to give you time to, I guess, to have
16 the child examined to see if the child was, in fact, competent
17 to testify.

18 A. Well, at that time it wasn't for that reason.

19 Q. Okay.

20 A. At that time the Department of Social Services had
21 not complied with my subpoena so I did not have the
22 information from DSS. By the time we got here in August I did
23 have the information, but only had it for basically a
24 weekend.

25 Q. Now, at one point you mentioned that you wanted to

1 have the child independently examined to determine if he was
2 competent to testify at trial; is that correct?

3 A. That's correct. There's a motion in this file for
4 that exact purpose.

5 Q. Did that ever happen? Did that occur?

6 A. Judge Early denied the motion. What he did was
7 before the start of the case brought the child in and he held
8 an examination of the child. He put the child on the stand
9 and he questioned the child and he determined that the child
10 was fit to serve as a witness. The examination never took
11 place. That's the way it was resolved.

12 Q. And the information you received from DSS and I know
13 you testified that you reviewed it, but did you ever review
14 that information with Ms. Beasley?

15 A. I don't see how I would have had the ability to do
16 that. I don't recall ever going through it with her. What I
17 was going to do is I think I made her aware that we did get
18 it.

19 Q. Sure. So did you think about reviewing that with
20 her or you just made the determination not to review it with
21 her since you thought there was nothing that would be helpful
22 at trial?

23 A. I guess it was sort of a combination of the two.
24 I went through it. I was confident that there was nothing in
25 it that would aid her in her defense, but quite frankly there

1 was no time to give it to her to go through it other than to
2 get it to her on Saturday or Sunday the day before the
3 trial.

4 Q. Okay. You said you don't recall if anyone brought
5 the trial judge's attention - well, his conduct to your
6 attention. You don't recall that, right?

7 A. I don't specifically recall if anybody said why is
8 he doing this or that he is doing this. But in Candice's
9 testimony today she indicated that it was brought to the
10 judge's attention. If that is true, then I'm convinced that
11 it would have been something that I said to him to bring it to
12 his attention. Now, that would have been done on her behalf
13 and at her urgency so if that's the way it happened, I'm
14 thinking that's probably an accurate description of what
15 happened.

16 Q. And just because you don't recall it being brought
17 to your attention, Mr. Hudson, that doesn't mean it didn't
18 happen, right?

19 A. I'm not saying that. I'm saying that I don't recall
20 the judge making any kind of expression that would lead me to
21 believe that it would rise to the level of causing a problem
22 for the jury. But if others did, and understand this, my
23 focus is on the witness and on maybe the jury's reaction to
24 what's going on, but I had, and Candice has a great support
25 staff, a great support of people who were there every day, and

1 if one of them came up to me and said did you see what was
2 going on, I may not have noticed it, but if I trusted what
3 they said to me and brought it to judge's attention, I think
4 that that was an appropriate thing to do.

5 Q. Let's talk about the motion to reconsider. Did you
6 ever float the idea or run it by Candice or Ms. Beasley rather
7 a motion to reconsider the sentence?

8 A. I did not come out and say, Candice, this is what
9 you need to do to get to increase your likelihood or chances,
10 a motion to reconsider the sentence itself. One of the
11 reasons was because I know she was appealing and we were
12 working on it and going to appeal the case anyway. That was
13 the focus of the attention immediately after we filed the
14 motions and it's kind of a strange timeline. It took longer
15 for the judge to rule on the motions almost than it did to
16 take from the beginning to the time of trial. I'm reminded
17 that there were weather issues that had been going on at that
18 time. But we argued the motion, the post trial motions
19 sometime around August of one year and the ruling didn't come
20 out until the next year. But to answer your question, it was
21 my belief that if we were going to approach that, Candice
22 would have to be in a position to say I did something. I'm
23 apologetic for doing something. Meeting with her, speaking
24 with her I just don't think she was there yet.

25 Q. Let me ask you this, Mr. Hudson. Prior to Ms.

1 Beasley's conviction in this case, were you aware that she did
2 not have a criminal history?

3 A. Yeah. I was aware of that. Well, that's not
4 necessarily -- I was aware of her criminal history.

5 Q. You was aware of her criminal history.

6 A. She had one charge. As I recall, it was a small
7 insignificant thing that happened, but that's why we put her
8 on the stand to testify. We knew it wasn't going to be a
9 problem so I knew she did have that criminal history.

10 Q. Right. So you knew that she did not have any
11 criminal history?

12 A. Right. Right.

13 Q. Okay. What did you think about the sentence of 10
14 years?

15 A. It was severe.

16 Q. Severe. So you thought it was a rather harsh
17 sentence --

18 A. Yes, sir.

19 Q. -- for someone who did not have a criminal history,
20 right?

21 A. Yes.

22 Q. Sure. All right. And knowing that still you did
23 not file a motion to have the sentence reconsidered?

24 A. It was not as severe as it could have been. The
25 judge, she was facing a lot more time than 10 years. He gave

1 her concurrent. I did not file a motion because I did not
2 think that it would make any difference, certainly not before
3 that judge, and it's just a decision that I made and I thought
4 that if I believed for one moment that Candice could get up
5 and say to the judge what he wanted to hear, I would file the
6 motion, but I don't think Candice was there yet.

7 MR. WALKER: Thank you. No more questions, Mr.
8 Hudson.

9 MR. SMITH: Thank you. No more questions, Your
10 Honor.

11 THE COURT: Thank you. You may step down. May the
12 witness be excused?

13 MR. WALKER: No objection from the applicant.

14 MR. SMITH: No, objection.

15 THE COURT: Yes, sir. You may be excused.

16 THE WITNESS: Yes, sir.

17 MR. SMITH: Your Honor, that's the State's case.

18 THE COURT: The State rests. Anything in reply?

19 MR. WALKER: Nothing, Your Honor.

20 THE COURT: All right. Glad to hear argument.

21 MR. SMITH: Your Honor, in this case as to Ms.
22 Beasley's allegations of Judge Early's facial expressions
23 during trial, the testimony from Mr. Hudson was that he
24 doesn't remember any of that happening and that if he
25 had, he would have brought it to the Court's attention

1 and I will just point you to the transcript of the case.
2 There's no other mention of it other than in Judge
3 Early's jury instructions which I believe indicates that
4 he was giving examples of the kinds of things that the
5 jury should disregard. Never mind the fact that it was
6 in the context of an instruction about things they should
7 not consider when discussing the role of the judge and
8 the jury.

9 You have heard testimony from Mr. Hudson that he was
10 working with Ms. Beasley to prepare this case, went over
11 discovery evidence, potential defenses. I think that's
12 also corroborated by the fact that he had subpoenaed
13 records from DSS hoping that they would support her
14 defense at trial and when those came in right before
15 trial, sounds like he wanted a continuance on that,
16 didn't get it, however, I would also draw the Court's
17 attention to the fact that he said there was nothing in
18 those records that helped Ms. Beasley's case and those
19 came from DSS, not the Solicitor's Office so...

20 So as far as at trial he also acknowledged that he
21 would have preferred to have more time. But in what case
22 does a defense attorney not want additional time? And I
23 would just point to the fact that there was a nine month
24 span from the time which she was arrested until trial and
25 it seems throughout the case from the indictments on down

1 the central allegations were that she severely whipped
2 the child with the jump rope and it doesn't seem that
3 there was really any evidence that would have changed the
4 defense posture to the State's case from beginning to
5 end.

6 You also heard about her wanting a motion to
7 reconsider. Mr. Hudson testified that he didn't really
8 believe it would have done any good, at least that's my
9 understanding of the argument because her defense the
10 whole time was that she didn't do it and that those
11 things are really only successful if she has some
12 contrition and since he didn't really see any of that in
13 her which again he attributed to her defense was that she
14 didn't do it, he didn't really see any benefit in filing
15 that motion.

16 And, Your Honor, just in light of all of that we
17 would ask you to deny Ms. Beasley's case. We think that
18 her testimony here today about lack of preparation and
19 the judge's expression is just generally not credible in
20 light of the transcript of the trial, in light of Mr.
21 Hudson's testimony, and in light of the fact that she
22 testified today she couldn't remember being at the post
23 trial motions hearing which she was clearly at. So in
24 light of all of that we ask the Court to deny her
25 application.

1 THE COURT: All right.

2 MR. WALKER: Thank you, Your Honor. May it please
3 the Court, Your Honor.

4 THE COURT: Yes, sir.

5 MR. WALKER: As Your Honor knows, the standard for
6 ineffective assistance of counsel is, one, you must show
7 that the trial counsel was deficient with their range of
8 competence. And secondly, that the applicant was
9 prejudiced as well. In other words, the reasonable
10 probability that but for trial counsel's errors the
11 outcome would have been different in the case. There's
12 testimony presented by the applicant that Mr. Hudson, the
13 trial counsel failed to review discovery or the evidence
14 in the case with her. Although he was hired and had been
15 on the case for about nine months, discovery in the
16 matter was not received until July the 8th and July the
17 10th which was, if I recall correctly, almost less than a
18 month prior to the trial, and even Mr. Hudson himself
19 said that he would have liked to have had more time and
20 someone who has been practicing law for 14 years, Judge,
21 most attorneys when you're asking for more time is
22 because you need additional time to adequately prepare
23 and if you are not adequately prepared, then you cannot
24 be effective at trial. As he said himself, he certainly
25 would not have asked for additional time if it wasn't

1 necessary. So in a round about way he was really saying
2 that in order to be adequately prepared, you need
3 additional time to be prepared.

4 Secondly, Your Honor, as it pertains to issue of the
5 continuance, he testified that he moved for a continuance
6 and that the motion was denied, however, I think there is
7 anything in the trial transcript that shows where Mr.
8 Hudson moved for a continuance. That was, perhaps it was
9 a side bar or what have you, but there's nothing in the
10 record to support that he moved for a continuance upon
11 evidence coming in just shy of a month prior to trial.
12 But also even with respect to the information received
13 from DSS on August the 7th just a couple of days prior to
14 trial although he made the determination that he didn't
15 think the information was helpful, at the same time he
16 wanted additional time to review it and the same was not
17 shared with Ms. Beasley who could have perhaps offered
18 some meaningful assistance in helping him sort of
19 decipher and review whatever it was that he received from
20 DSS.

21 Thirdly, the applicant has presented testimony not
22 only through her testimony but also in addition to a
23 witness who testified about the facial expressions from
24 the trial judge which the jury took notice of. Even
25 trial counsel himself testified that although he doesn't

1 remember it not happening, certainly because he doesn't
2 remember doesn't mean that it did not happen. And
3 granted the trial judge made reference to that in his
4 instructions to the jury, it's kind of ambiguous as to
5 whether or not he's making reference to facial
6 expressions as, you know, it's almost like par for the
7 course with respect to his jury instructions or jury
8 charges or if he is, in fact, referring to his own
9 conduct throughout the trial, but certainly there's been
10 testimony presented that it was brought to his attention
11 and I could only imagine the impact that may have had on
12 that jury when you're talking about the testimony of a
13 child versus the testimony of a person that's been
14 accused of abusing that child so the failure to move for
15 a mistrial, Your Honor, we believe, we feel certainly
16 that Ms. Beasley was prejudiced by that.

17 And then finally, this issue of failure to file a
18 motion to reconsider the sentence. For most attorneys it
19 is par for the course that when you have a client that
20 has been sentenced, particularly sentenced to a decade
21 with the Department of Corrections and someone in Ms.
22 Beasley's position who does not have a criminal history
23 to simply not file a motion to reconsider and to just
24 take a chance, or take a shot at seeing if the trial
25 court would be willing to reconsider the sentence

1 especially in light of the evidence that was presented at
2 trial and it being a matter of Ms. Beasley's word against
3 the word of a child, so to simply not file that motion we
4 believe that she was certainly prejudiced by it and
5 believe that preponderance of the evidence shows that
6 trial counsel was ineffective so we would ask Your Honor
7 to grant the relief specifically, vacate the sentence and
8 remand this matter so that Ms. Beasley can be
9 resentenced. Thank you, Your Honor.

10 THE COURT: All right. Thank you, Mr. Walker.
11 Anything in reply, sir?

12 MR. SMITH: Just briefly, Your Honor. I don't
13 believe there's any professional obligation even in PCR
14 context to move for a reconsideration of a sentence. Mr.
15 Hudson also testified that Ms. Beasley did not ask for
16 that. So in light of that and the rest of the case we
17 would ask that the Court dismiss the application.

18 THE COURT: After considering the evidence submitted
19 as well as the arguments of counsel the Court finds, the
20 Court agrees with the argument and the position taken by
21 the State in this case, specifically finding that the
22 testimony of trial counsel Mr. Hudson was very credible.
23 Further finding that in the Court's experience a motion
24 to reconsider sentence is not routinely done in my
25 personal experience, therefore, I find that the applicant

1 has failed to meet applicant's burden of proof compelling
2 the Court to deny the application for post conviction
3 relief. The Court will be in recess for five minutes.

4 MR. WALKER: Thank you, Judge.

5 MR. SMITH: Thank you, Judge.

6 THE COURT: Mr. Smith, prepare an order.

7 MR. SMITH: How many days?

8 THE COURT: 20 days.

9 MR. SMITH: Thank you, Judge.

10 WHEREUPON, THE HEARING WAS CONCLUDED.

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1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON)

4

5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of Common Pleas in and for the
10 State of South Carolina on the 25th day of June, 2019.

11 I FURTHER CERTIFY that the forgoing 57 pages
12 constitute a true and accurate record of said proceedings.

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

15 IN WITNESS WHEREOF, I have hereunto set my hand at
16 Lexington County, this 3rd day of November, 2019.

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19

By:s/Steven E. LeBlanc

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

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

Candice R. Beasley, #365065,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

Case No. 2019-CP-32-00407

ORDER OF DISMISSAL

FILED
2019 AUG -8 AM 11:43
LEXINGTON, SC

This matter comes before this Court by way of an Application for Post-Conviction filed on January 29, 2019, by Candice R. Beasley (Applicant). The State (Respondent) filed its Return, Partial Motion to Dismiss, and Motion for a More Definite Statement on May 20, 2019. An evidentiary hearing in the matter was held before the undersigned on June 25, 2019, at the Lexington County Courthouse. Applicant was present and was represented by Overture E. Walker, Esquire. Respondent was represented by Assistant Attorney General Taylor Z. Smith of the South Carolina Attorney General's Office. At the hearing, Kimberly Beasley and Applicant testified on Applicant's behalf, and Stephen L. Hudson, Esquire, (Counsel) testified on behalf of Respondent. Following a thorough review of the record in its entirety and the testimony and evidence presented at the evidentiary hearing, this Court finds that Applicant has failed to meet her requisite burden of proof and denies this application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. During its April of 2015 term, the Lexington County Grand Jury indicted Applicant for the infliction of great bodily injury upon a child (2015-GS-32-1050). During its June of 2015 term, the Lexington County Grand Jury

indicted Applicant for unlawful conduct towards a child (2015-GS-32-1393). Applicant was represented in the matters by Counsel, and Assistant Solicitor Suzanne Mayes, of the Eleventh Circuit Solicitor's Office, prosecuted the cases on behalf of Respondent. On August 10-12, 2015, Applicant appeared before a jury with the Honorable Doyet A. Early, III, presiding, and was convicted as indicted on both counts following a jury trial. Judge Early sentenced Applicant to imprisonment for ten years on each conviction, with the sentences running concurrently, and with credit for time served.

On September 20, 2016, Counsel filed a Notice of Appeal. Appellate Defender Laura Mary Caudy perfected the appeal on Applicant's behalf, and Senior Assistant Deputy Attorney General Deborah R. J. Shupe represented Respondent. On appeal, Applicant argued that "the trial court erred in denying her motion for a directed verdict because the record contain[ed] no evidence of great bodily harm." State v. Beasley, No. 2018-UP-418 (S.C. Ct. App. 2018). The South Carolina Court of Appeals affirmed in an unpublished opinion. Id. The Remittitur was issued on November 27, 2018.

CURRENT PROCEEDING

On January 29, 2019, Applicant filed an Application for Post-Conviction Relief, in which she made the following allegations:

1. Ineffective assistance of counsel
 - a. "Poor [r]epresentation by counsel including ineffective assistance during trial of case"
2. Actual innocence
 - a. "Incarceration of an innocent person, a clear violation of Applicant's constitutional rights."
 - b. "Applicant has maintained her innocence, but was wrongfully convicted . . ."



At the start of the evidentiary hearing, Respondent requested that Applicant specify for the record the grounds upon which Applicant would move forward. Applicant specified that she would be moving forward only upon the following allegations:

1. Counsel was constitutionally ineffective for failing to review discovery and evidence with Applicant;
2. Counsel was constitutionally ineffective for failing to move for a continuance to review evidence that came in only days before trial;
3. Counsel was constitutionally ineffective for failing to move for a mistrial after acknowledgement by Judge Early that his facial expressions during Applicant's trial may have influenced the jury; and
4. Counsel was constitutionally ineffective for failing to file a motion to reconsider Applicant's sentence.

Although these grounds were not grounds that had been pleaded in the Application for Post-Conviction Relief or any subsequent filing, Respondent did not object because Mr. Walker presented these grounds and supporting details to Mr. Smith in an email on June 11, 2019. Because these four allegations are the only grounds upon which Applicant moved forward at the evidentiary hearing, all other grounds are deemed to be waived and will not be addressed in this Order.

SUMMARY OF TESTIMONY AT PCR HEARING

Applicant's testimony

Applicant testified that she was arrested for the underlying criminal offenses in 2015. She testified that Counsel represented her in the criminal case. She testified that Counsel had represented her in a different matter in the past, in which she gained custody of the victim. She testified that she and Counsel met only a few times, and that the meetings happened only once every couple of months whenever she would drop off her payments at Counsel's office. She testified that their meetings usually concerned only Applicant's payments to Counsel. She testified that Counsel did not explain to her the potential sentences to which she was exposed for the infliction of great bodily injury upon a child or unlawful conduct towards a child, did not



explain to her the burden of proof that the State would face at trial, did not explain to her the elements of the aforementioned offenses, did not review with her any potential defenses, did not review discovery with her, and did not discuss potential trial strategies with her. She testified that Counsel gave her the impression that the cases would not go to trial because no one believed that the State would prosecute them.

She testified that the State did not turn over full discovery to Counsel until a week before trial. She testified that, as a consequence of this later disclosure, Counsel did not have sufficient time to review the discovery or prepare the case for trial. She testified that she did not have adequate time in which to discuss the case with Counsel before trial. She testified that Counsel did not ask for a continuance and that she believes that he should have done so in order that they would have had additional time to review the evidence, and because Counsel was sick at the time of trial. She testified that she did not know what the new evidence was, but speculated that it was the Department of Social Services' case files for the victim. She testified that Counsel called only her sister as a witness in Applicant's defense at trial. She testified that Counsel subpoenaed a witness for trial and called Applicant's sister. She testified that she and Counsel had discussed calling a Department of Social Services employee or her a daycare employee as potential witnesses.

She testified that Judge Early made facial gestures and sounds of anger in response to her witnesses, and that his expresses were not well received. She testified that Judge Early made noises and verbal sounds in response to the solicitor's questions for the defense witnesses. She testified that Judge Early's facial expressions primarily when Kimberly Beasley, Applicant's sister, was testifying, as well as when the State presented evidence, like photographs. She testified that she thought that the jury saw the Judge's expresses because he mentioned them



twice to the jury during the course of the trial. She testified that she brought them to the attention of Counsel, but that Counsel did not do anything in response and did not move for a mistrial.

She testified that she did not have a prior criminal history before this case. She testified that Counsel did not move to reconsider her sentence, and that she thought she would have gotten less time had he done so. She testified that, if Counsel filed post-trial motions, she was not aware of the fact and that she did not remember being present for any hearings subsequent to her trial.

Kimberly Beasley's testimony

Kimberly Beasley testified that she is Applicant's younger sister. She testified that she was present for the entirety of Applicant's trial and observed all of the witnesses thereat. She testified that Judge Early gave many sighs, grunts, and facial expressions during the trial, particularly when the State introduced photographs of the victim's injuries and of the jump rope that had been used to whip the victim. She testified that she believed Judge Early's behavior to have been improper because she thought that judges were supposed to be neutral as to the parties in a trial. She testified that Judge Early made these sounds and expressions in response to the State's witnesses as well as Applicant's witnesses. She testified that she could not recall if Judge Early made noises and facial expressions during her testimony, but that she knows that he did so during Applicant's testimony.

Counsel's testimony

Counsel testified that he owns his own law firm in Columbia, South Carolina. He testified that he has been practicing law for twenty-eight years, with about forty percent of that practice being devoted to criminal defense. He testified that he was retained by Applicant in a previous case when she wanted custody of a minor child, who later became the victim in the underlying



criminal case. He testified that, although the majority of his practice is devoted to family law, Applicant asked him to defend her in the criminal case. He did not remember the number of meetings he had with Applicant, but testified that he believed to have met with Applicant on a sufficient number of times to prepare for trial. He testified that talked with Applicant on the phone and corresponded with her by email many times. He testified that he also discussed the case with Applicant's two sisters. He testified that Applicant was arrested in November, and that her case was called for trial nine months after that. He testified that the case had originally been called for trial in July, but was continued. He testified that he also met with Applicant during court appearances, and on a monthly basis whenever she dropped off payments at his office.

He testified that he filed for discovery, and received it from the State in July of 2015, which was about one month before Applicant's trial. He testified that he received the discovery in two batches. He testified that the discovery included photographs of the victim and statements from the doctors who had treated him. He testified that he met with Applicant on July 23, 2015, and that he believes that the purpose of that meeting was to review all discovery with her in preparation for trial. He testified that his general practice is to review all discovery with a client before trial.

He testified that the victim's DSS records were not in the solicitor's file, and, therefore, he could not have obtained them through discovery from the solicitor. He testified that he subpoenaed the victim's records from the Department of Social Services in early July. He testified that he requested a continuance because he had not yet received the records in response to his subpoena, and because he wanted an expert to examine the victim in order to ascertain whether the victim would be a competent witness at trial. He testified that Judge Jefferson continued the trial until the next term, which was two weeks after the original trial date. He



testified that he had received the DSS records by the time the case was called to trial during the next term. He testified that he did not receive discovery from the State in the week before trial; rather, he testified that this was the DSS records that he had subpoenaed. He testified that he tried to discuss the case with the attorney appointed to represent Applicant in DSS's child abuse and neglect case, but that the conversations ended whenever Applicant agreed to findings of abuse and neglect.

He testified that he discussed the elements of infliction of great bodily harm upon a child and unlawful conduct towards a child, potential defenses thereto, the sentences to which Applicant would be exposed if convicted, and trial strategies with Applicant in preparation of her case for trial. He testified that one possible defense that he had discussed with Applicant was whether the victim had injured himself or if someone other than Applicant had injured the victim. He testified that Applicant consistently maintained that she did not spank the victim with the jump rope found by the police in Applicant's home. He testified that, based on Applicant's maintaining her innocence, he tried to argue at trial that another adult or the victim himself had caused the injuries. He testified that he had subpoenaed the victim's DSS records in an attempt to support this defense, but that the DSS records did not have any evidence that were helpful to Applicant's defense. He testified that he met with Applicant three weeks before trial in order to review discovery with her.

He testified that he was not sure that he had adequate time to review the victim's DSS records with Applicant before trial since he probably would have had only the weekend in between his receipt of them and the start of trial, but testified that he told Applicant that he had received the DSS records and that they were not helpful to her defense or trial strategy. He testified that he asked for a continuance in Judge Early's chambers before trial on the ground that



he wanted more time to review the DSS records before trial, and that Judge Early denied the motion. He testified that he would have liked to have more time to prepare for trial, but that his motion was denied. He testified that Judge Early conducted his own line of inquiry at trial and found that the victim was competent to testify.

He testified that he did not want to call employees from the victim's school as he did not believe that they would have provided testimony favorable to Applicant's defense, but that he did subpoena some of them for trial so that he could question them in support of the defense that the victim had self-inflicted his injuries. He testified that both of Applicant's sisters testified at trial: one was called as a witness by the State and that the other was called as a defense witness.

He testified that he did not recall seeing Judge Early make any facial expressions or make noises during the trial but that he did remember Judge Early mentioning facial expression in his jury charges. He testified that he does not remember Applicant telling him at trial that Judge Early was making any sort of faces or noises. He testified that he did not witness any behavior on the part of Judge Early that caused him concern and that the solicitor did not mention anything. After reading the jury charges from Applicant's trial transcript, Counsel testified that he believes that Judge Early was merely giving examples of the kind of things the jury would be required to disregard since it was the judge of the facts of the case. He testified that he did not move for a mistrial because nothing that Judge Early did prejudiced Applicant. He testified that he did not believe that Judge Early did anything improper at trial that would have raised an issue for Applicant. He testified that, if someone had brought it to his attention that Judge Early were making faces or noises, he would have brought it to the attention of Judge Early at trial.

He testified that Judge Early gave the parties ten days after trial to file post-trial motions, and that he filed two: one for a directed verdict based on the lack of sufficient evidence to



support the verdicts and another based on witness bolstering. He testified that he did not file a motion to reconsider Applicant's sentence. He testified that he met with Applicant in the South Carolina Department of Corrections after trial in order to review her appellate options, and that he did not think that a motion to reconsider Applicant's sentence would have been fruitful because Applicant was not conciliatory following trial and during sentencing. He testified that the focus was on Applicant's appeal. He testified that he does not think that motions to reconsider are typically beneficial unless the defendant is apologetic, and that Applicant was not apologetic. He testified that he did not believe that there would have been any benefit from a post-trial motion to reconsider following Applicant's trial. He testified that he agreed that a prison sentence of ten years is severe for someone without a criminal history, but testified that Applicant was facing a lot more time than ten years, and could have received consecutive sentences rather than concurrent sentences.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented at the evidentiary hearing, which allowed the Court to scrutinize the credibility of all witnesses presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. See Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in her post-conviction relief action, and when alleging that trial counsel was constitutionally ineffective, she must prove that "counsel's



conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, 466 U.S. at 686

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Petitioner 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.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668. Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland



requires the post-conviction relief applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Id.* at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney. *Id.* at 690.

Based on this standard set forth above, the testimony that is summarized above, and the reasoning below, this Court finds Applicant has failed to meet her requisite burden of establishing any constitutional ineffectiveness of counsel. The allegations are addressed fully below:

Counsel was constitutionally ineffective for failing to review discovery and evidence with Applicant.

Applicant alleges that that Counsel did not explain to her the potential sentences to which she was exposed for the infliction of great bodily injury upon a child or unlawful conduct towards a child, did not explain to her the burden of proof that the State would face at trial, did not explain to her the elements of the aforementioned offenses, did not review with her any potential defenses, did not review discovery with her, and did not discuss potential trial strategies with her, and that Counsel was thereby constitutionally ineffective.

A defense attorney has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. *Id.* at 691. Thus, "[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State." *McKnight v. State*, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). Moreover, counsel's decision not to investigate should be assessed for

reasonableness under all the circumstances with heavy deference to counsel's judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). "[C]ounsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions. . ." Strickland, 466 U.S. at 691. "[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." Id. at 690; Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633-34 (Ct. App. 2014). A defense attorney's "[f]ailure 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." Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (citing Kibler v. State, 267 S.C. 250, 227 S.E.2d 199 (1976)). An applicant alleging that his attorney failed to prepare for the case must show how additional preparation would have resulted in a different outcome. See Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997).

Applicant's allegations that Counsel did not explain to her the potential sentences to which she was exposed for the infliction of great bodily injury upon a child or unlawful conduct towards a child, did not explain to her the burden of proof that the State would face at trial, did not explain to her the elements of the aforementioned offenses, did not review with her any potential defenses, did not review discovery with her, and did not discuss potential trial strategies with her are not credible in light of Counsel's very credible testimony. This Court finds that Counsel's testimony as to his multiple meetings, emails, and phone calls with Applicant demonstrates that he spent sufficient time with Applicant. This Court finds that Counsel's testimony as to the substances of his meetings, emails, and phone calls with Applicant demonstrates that he did explain the potential sentences to which Applicant was exposed as a

result of the charges against her, did explain to Applicant the applicable burdens of proof, did explain to Applicant the elements of infliction of great bodily injury upon a child and unlawful conduct towards a child, did review potential defenses with Applicant, did review discovery with Applicant, and did discuss potential trial strategies with Applicant. Applicant's own testimony as to the potential of calling a DSS case worker and her sisters at trial is further evidence of the substantive nature of Applicant's meetings with Counsel. Furthermore, Applicant has failed to demonstrate how any further preparation or meetings would have yielded a benefit in her defense. This Court finds that Counsel was not constitutionally ineffective for failing to review the discovery and evidence in the case with Applicant or for failing to prepare for trial as Applicant has failed to demonstrate any deficiency in Counsel's performance or resulting prejudice. As such, this ground is denied and dismissed with prejudice.

Counsel was constitutionally ineffective for failing to move for a continuance to review evidence that came in only days before trial.

Applicant alleges that the State made a final discovery disclosure one week before trial, that Counsel did not have adequate time to review that discovery in preparation for trial, and that Counsel was ineffective in not moving for a continuance so that he would have more time to review that evidence.

A defense attorney has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. *Id.* at 691. Thus, "[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State." *McKnight v. State*, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). Moreover, counsel's decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel's judgment.



Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). “[C]ounsel’s conversations with the defendant may be critical to a proper assessment of counsel’s investigation decisions. . .” Strickland, 466 U.S. at 691. “[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed as of the time of counsel’s conduct.” Id. at 690; Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633-34 (Ct. App. 2014). An “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 from the witness’ failure to testify at trial.” Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (citing Pauling v. State, 331 S.C. 606, 503 S.E.2d 468 (1998)). When alleging that defense counsel was ineffective for failing to move for a continuance, an applicant has to show at the PCR hearing “how additional preparation would have had any possible effect on the result” of the trial. Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 131-32 (1997).

Applicant’s testimony that the State made a supplemental discovery disclosure in the week before her trial is not credible in light of Counsel’s testimony that the State’s final discovery disclosure came one month before trial; rather, it was the victim’s DSS records that were received by Counsel one week before trial. The testimony of Counsel demonstrates that Counsel’s subpoena of the victim’s DSS records, which were not in the possession of the solicitor, had not been complied with by the time that the case first came up for trial. The testimony of Counsel shows that the trial was continued for approximately two weeks upon Counsel’s motion so that he could receive the records he was seeking from DSS. This Court finds that, when the case then came up for trial again, Counsel did unsuccessfully move for a continuance before Judge Early on the ground that he wanted additional time to review the DSS

records for the victim, which had since been received by Counsel. This indicates that Counsel was not deficient. This Court further finds that Applicant has failed to demonstrate any prejudice from the lack of a continuance in the case. Counsel's testimony as to the victim's DSS records shows that the records were not helpful to Applicant's defense. Although Counsel testified that he would have liked to have more time to prepare the case for trial, neither he nor Applicant presented testimony that identified any admissible evidence that the defense could have acquired had a continuance been granted. This Court finds that Counsel was not constitutionally ineffective for failing to move for a continuance since Applicant has failed to demonstrate any deficiency in Counsel's performance or resulting prejudice. As such, this ground is denied and dismissed with prejudice.

Counsel was constitutionally ineffective for failing to move for a mistrial after acknowledgement by Judge Early that his facial expressions during Applicant's trial may have influenced the jury.

Applicant alleges that Judge Early made facial expressions and noises during trial that prejudiced her because they constituted judicial comment on the evidence in the case in favor of the State's evidence and against Applicant's.

This Court finds that the testimony of Applicant and Kimberly Beasley that Judge Early made noises and facial expressions during Applicant's trial in reaction to evidence and testimony presented is not credible in light of Counsel's very credible testimony. Both the testimony of Counsel and the absence of any reference in the trial transcript to the actual occurrence of these alleged behaviors on the part of Judge Early indicates that Judge Early did not make inappropriate faces or noises during trial. Counsel testified that he would have brought it to the attention of the court had any such behavior occurred, which further supports this finding. When charging the jury, Judge Early said:



I cannot have an opinion on the facts, the law just does not allow me to do that. So please don't infer—if I've done anything that makes you think I have an opinion, set that aside. I can't have an opinion. So please, please, don't let anything that I've done in the case infer [sic] that I have an opinion of the facts.

Trial Tran. 496.

This Court finds that this remark from Judge Early constituted an example of the type of behavior that the jury would have to disregard when it was judging the credibility of witnesses and weight of evidence in Applicant's trial, but that this remark was not an admission from Judge Early that he had committed any of the behaviors described therein. Not only has Applicant failed to demonstrate that Judge Early actually did the things alleged by Applicant, but she has failed to demonstrate any prejudice. See Early v. State, 418 S.C. 255, 273, 792 S.E.2d 226, 273 (2016) (reversing a PCR court's grant of relief when applicant failed to demonstrate prejudice when counsel did not move for a mistrial). This Court finds that Counsel was not constitutionally ineffective for failing to move for a mistrial on the ground that Judge Early made faces at trial since Applicant has failed to show any deficiency in Counsel's performance or resulting prejudice. As such, this ground is denied and dismissed with prejudice.

Counsel was constitutionally ineffective for failing to file a motion to reconsider Applicant's sentence.

Applicant alleges that her sentence was harsh in light of her lack of a prior criminal history, that Counsel did not move for a reconsideration of her sentence, and that she was prejudiced thereby because she could have received a lighter sentence if he had done so.

A sentencing court has discretion to sentence within the legal limits. State v. Sidell, 262 S.C. 397, 398, 205 S.E.2d 2, 3 (1974). Applicant's testimony that Counsel did not file post-trial motions, and her claim to not remember those motions when confronted with the transcripts from post-trial motions that indicated that she was present, demonstrates that her testimony is not credible compared to Counsel's very credible testimony. Although Counsel did make post-trial

motions, he did not move for a reconsideration of Applicant's sentence. This Court finds that Counsel has articulated a reasonable and strategic reason for not moving to reconsider Applicant's sentence. Counsel testified that Applicant did not demonstrate remorse after trial, and that he believed that a motion to reconsider would not be successful absent a demonstration of remorse. See Butler, at 442, 334 S.E.2d at 814. This Court finds that motions to reconsider a sentence are not routinely made nor granted. Furthermore, Applicant has failed to demonstrate prejudice because she has not shown that such a motion would have been successful had it been made. This Court finds that Counsel was not constitutionally ineffective for failing to move to reconsider Applicant's sentence since Applicant has failed to show any deficiency in Counsel's performance or resulting prejudice. As such, this ground is denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his Application for Post-conviction Relief. Therefore, this application is denied and dismissed with prejudice.

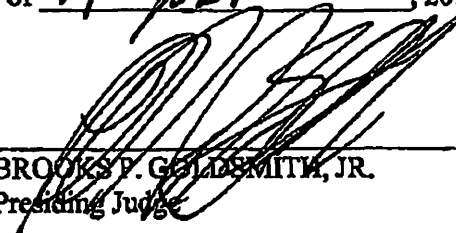
This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203 and 243, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate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



IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 3rd day of August, 2019.



BROOKS P. GELL SMITH, JR.
Presiding Judge

, South Carolina

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2019CP3200407

Candice R Beasley 365065

South Carolina State of

PLAINTIFF(S)

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.

8/8/2019

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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

CPFORM4Cm

SCCA SCRPC Form 4C (Revised 2/17)

Overture E. Walker 1527 Blanding Street Columbia, SC
29201

Taylor Zane Smith PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

LISA COMER/jp

Court Reporter

Lisa M. Comer - 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), SCRCF.

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.

DOCKET NO. 2015GS3201050

The State of South Carolina
County of Lexington

Law Enforcement Case #: 14018904

LSM

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

APRIL TERM 2015

2014A3210201967

**THE STATE
VS.**

ACTION OF GRAND JURY

Candice R Beasley

TRUE BILL

Foreperson of Grand Jury
Date:

4/13/15

CDR #: 2766

VERDICT

Indictment for

Infliction of Great Bodily Injury upon a Child

§ 16-03-0095(A)

DONALD V. MYERS, SOLICITOR

Foreperson of Petit Jury
Date:

A TRUE COPY

Torrey

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Breat Bodily injury upon a child
 § 16-03-0095(A)

At a Court of General Sessions, convened on APRIL 2015, the Grand Jurors of Lexington County present upon their oath:

That **Candice R. Beasley** did in Lexington County, South Carolina on or about April 4th, 2014 through October 14th, 2014, willfully and unlawfully inflict great bodily injury upon a child, resulting in bodily injury which creates a substantial risk of death or which causes serious or permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, to wit: bodily injury causing serious or permanent disfigurement or scarring to the skin system upon **minor** [REDACTED] DOB [REDACTED]-2008, the aforesaid victim being a minor child, in violation of § 16-3-95(A), 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.

Suzanne Mayes
 ASSISTANT SOLICITOR

A TRUE COPY

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

WITNESSES

Lexington County Sheriffs Department

S Dykes

Law Enforcement Case #: 14018904

LSM

ARREST WARRANT NUMBER

2014A3210201968

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

6/1/15

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS3201393

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JUNE TERM 2015

THE STATE

vs.

Candice R Beasley

CDR #: 2481

Indictment for

UNlawful conduct towards a child

§ 63-05-0070

DONALD V. MYERS, SOLICITOR

A TRUE COPY

Lex. Co. C.O.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 UNlawful conduct towards a child
 § 63-05-0070

At a Court of General Sessions, convened on JUNE 2015, the Grand Jurors of Lexington County present upon their oath:

That Candice R. Beasley, a person who had charge or custody of a child, or being the parent or guardian of a child, or being responsible for the welfare, care and support of a child, did in Lexington County, South Carolina, on or about April 4th, 2014 through October 14th, 2014, unlawfully, place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety, to wit: did cause physical injury to a minor child, minor, DOB [REDACTED]-2008, and/or did fail to protect the minor child from known harm or physical abuse, in violation of Section 63-5-70 South Carolina 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.

Suzanne Mayes
 ASSISTANT SOLICITOR

A TRUE COPY

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

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
 STATE VS.
Candice R Beasley

AKA:

Race: Black Sex: F Age: 29DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Columbia, SC 29210-4965DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Abuse / To inflict great bodily injury upon a child

in violation of § 16-03-0095(A) of the S.C. Code of Laws, bearing CDR Code # 2766

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 30.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$
TOTAL		\$ <u>130.00</u>

Clerk of Court/Deputy Clerk

Court Reporter

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS3201050A/W#: 2014A3210201967Date of Offense: 8/19/2014S.C. Code § : 16-03-0095(A)CDR Code #: 2766

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code: 0139Sentence Date: Aug 12, 2015

STATE OF SOUTH CAROLINA

COUNTY OF LexingtonSTATE VS.Candice R Beasley

AKA:

Race: Black Sex: F Age: 29DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Columbia, SC 29210-4965DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Children / Legal custodian, unlawful neglect of child or helpless personin violation of § 63-05-0070 of the S.C. Code of Laws, bearing CDR Code # 2481☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 15-65-32-1050☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$
TOTAL		\$ <u>130.00</u>

Clerk of Court Deputy Clerk

Court Reporter

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS3201393A/W#: 2014A3210201968Date of Offense: 8/19/2014S.C. Code § : 63-05-0070CDR Code #: 2481

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS(Unlawful Conduct towards Child)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 0136Sentence Date: Aug 12, 2015TTC Eachin