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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Thomas A. Russo, Circuit Court Judge

DEDERICK T. BRIGHT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000766

APPENDIX

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INDEX

INDEX i

TRANSCRIPT OF GUILTY PLEA HEARING HELD AUGUST 8, 20191

APPLICATION FOR POST-CONVICTION RELIEF23

RETURN AND MOTION FOR MORE DEFINITE STATEMENT30

AMENDED APPLICATION FOR POST-CONVICTION RELIEF36

TRANSCRIPT OF POST-CONVICTION RELIEF HEARING
HELD FEBRUARY 27, 2018.....38

ORDER OF DISMISSAL102

CLERK OF COURT RECORDS114

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	3
GUILTY PLEA	4
CERTIFICATE OF THE COURT REPORTER	22

INDEX TO EXHIBITS

No exhibits were introduced

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 PROCEEDINGS

2 THE COURT: What have we got?

3 MS. HERRING-LASH: Your Honor, Mr. Bright is
4 pleading guilty to criminal sexual conduct with a minor
5 in the second degree. He was indicted for criminal
6 sexual conduct with a minor in the first degree based on
7 him already being on the sex offender registry. But he
8 is pleading to the second degree.

9 THE COURT: Do we have a sentencing sheet?

10 MR. COCHRAN: I'm sorry, Your Honor. I had to get
11 him signed up.

12 [Whereupon, Mr. Cochran provides documents to the
13 court]

14 [Whereupon, the witness is duly sworn by the Clerk
15 of Court]

16 THE COURT: Mr. Cochran, you represent Dederick
17 Tarmanye Bright on the charge of criminal sexual conduct
18 with a minor in the second degree?

19 MR. COCHRAN: Yes, Your Honor.

20 THE COURT: Have you discussed with your client the
21 charge against him, his rights as a defendant and the
22 consequences of being convicted of this crime?

23 MR. COCHRAN: Yes, Your Honor.

24 THE COURT: In your opinion does your client
25 understand the charge against him, his rights as a

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 defendant and the consequences of being convicted of this
2 crime?

3 MR. COCHRAN: Yes, Your Honor.

4 THE COURT: Does he wish to plead guilty or not
5 guilty?

6 MR. COCHRAN: Guilty, Your Honor.

7 THE COURT: Do you agree with his decision to plead
8 guilty to this charge?

9 MR. COCHRAN: I do.

10 THE COURT: Based upon the information that you
11 have if this case proceeded to trial do you feel that the
12 State could prove your client's guilt beyond a reasonable
13 doubt?

14 MR. COCHRAN: Yes, Your Honor.

15 THE COURT: Has your client received a competency
16 evaluation?

17 MR. COCHRAN: No, Your Honor.

18 THE COURT: Do you feel that he needs a competency
19 evaluation?

20 MR. COCHRAN: No, Your Honor.

21 THE COURT: Sir, your name is Dederick Tarmanye
22 Bright?

23 MR. BRIGHT: Yes, sir.

24 THE COURT: Mr. Bright, you have been charged with
25 criminal sexual conduct with a minor in the second degree

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 and according to your attorney you wish to plead guilty
2 to that charge, is that correct?

3 MR. BRIGHT: Yes, sir.

4 THE COURT: Before I can accept your guilty plea
5 I've got to go over some questions with you to be sure
6 that you understand the charge against you, that you
7 understand your rights as a defendant and that you
8 understand the consequences of pleading guilty and I must
9 be sure you're pleading guilty voluntarily.

10 Now during the past 72 hours have you taken any
11 medication, consumed any alcohol or drugs or been under
12 any influence that would affect your ability to know why
13 you're here?

14 MR. BRIGHT: No, sir.

15 THE COURT: Do you understand why you're here
16 today?

17 MR. BRIGHT: Yes, sir.

18 THE COURT: Is there anything about this hearing
19 that you want to ask your lawyer or ask me before we
20 proceed?

21 MR. BRIGHT: No, sir.

22 THE COURT: All right. Now one of your rights as
23 a defendant is that you cannot be prosecuted for any
24 crime unless and until you are indicted by the Grand
25 Jury. What that means is that when you're charged with a

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 crime the State has an obligation to present your case to
2 a Grand Jury for review. The Grand Jury reviews your
3 case to determine whether or not there is any evidence to
4 indicate you committed the crime.

5 If the Grand Jury finds there is evidence you
6 committed the crime the Grand Jury would indict you and
7 the State could go forward and prosecute you on the
8 charge. On the other hand if the Grand Jury found that
9 there was no evidence against you or that the evidence
10 against you was insufficient to support the charge then
11 the Grand Jury would not indict you and the State could
12 not prosecute you.

13 At this point in time you have not been indicted by
14 the Grand Jury therefore at this point in time the State
15 could not prosecute you on this charge and I cannot
16 accept your guilty plea unless you waive presentment to
17 the Grand Jury. Waiving presentment to the Grand Jury
18 means that you are relieving the State from its
19 obligation to have the Grand Jury review your case and
20 indict you before they prosecute you. Do you understand
21 that?

22 MR. BRIGHT: Yes, sir.

23 THE COURT: And do you wish to waive presentment to
24 the Grand Jury so that you can plead guilty to this
25 charge?

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 MR. BRIGHT: Yes, sir.

2 THE COURT: All right. Even though you waive
3 presentment to the Grand Jury under the Constitution of
4 the United States you're presumed innocent of this crime
5 and you have the right to have your guilt or innocence
6 determined by a jury trial of your peers. The State
7 bears the burden of proving your guilt beyond a
8 reasonable doubt. You do not have to prove your
9 innocence and you cannot be compelled to testify against
10 yourself.

11 You also have the right to confront and cross-
12 examine anybody who testifies against you. If you choose
13 you can present a defense to this charge. But when you
14 plead guilty you give up all of those rights. Do you
15 understand that?

16 MR. BRIGHT: Yes, sir.

17 THE COURT: And do you want to give up those rights
18 and plead guilty to this charge?

19 MR. BRIGHT: Yes, sir.

20 THE COURT: Now you understand that for this crime
21 I could send you to prison for 20 years? Do you
22 understand that?

23 MR. BRIGHT: Yes, sir.

24 THE COURT: Do you also understand that this crime
25 is classified as a violent crime? What that means is if

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 you are ever convicted of another violent crime then that
2 subsequent violent crime conviction you would not be
3 eligible for parole and you could not be placed on
4 probation. Do you understand that?

5 MR. BRIGHT: Yes, sir.

6 THE COURT: Do you also understand that this crime
7 is classified as a most serious crime? What that means
8 is if you're ever convicted of two most serious crime
9 convictions then the sentence for that second most
10 serious crime conviction can be enhanced to life in
11 prison without the possibility of parole. And the State
12 will use this guilty plea against you to show a most
13 serious crime conviction on your record. Do you
14 understand that?

15 MR. BRIGHT: Yes, sir.

16 THE COURT: And do you understand that by pleading
17 guilty to this crime you may be required to register as a
18 sex offender? Do you understand that?

19 MR. BRIGHT: Yes, sir.

20 THE COURT: Do you also understand that upon
21 completion of your sentence you will have to wear
22 electronic monitoring? You will have to get an ankle
23 bracelet and you'll have to wear that. Do you understand
24 that?

25 MR. BRIGHT: Yes, sir.

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 MS. HERRING-LASH: Your Honor, I don't think that
2 criminal sexual conduct with a minor second degree
3 requires GPS.

4 THE COURT: Well, unless the court makes a finding
5 that the sexual conduct was consensual.

6 MS. HERRING-LASH: Okay.

7 THE COURT: Was it a consensual?

8 MS. HERRING-LASH: No, Your Honor.

9 THE COURT: Okay. If it was not a consensual
10 encounter then electronic monitoring will be required.
11 Do you understand that?

12 MR. BRIGHT: Yes, sir.

13 THE COURT: Do you also understand that this is a
14 sexually violent offense? What happens there is upon
15 your completion of your sentence, whatever that sentence
16 imposed is, upon completion of that sentence that the
17 Attorney General for the State can bring a civil action
18 against you to determine whether or not you are a
19 sexually violent predator.

20 And if the court finds in a jury trial that you are
21 a sexually violent predator then you can be committed to
22 the Department of Mental Health for an indefinite period
23 of time up to the rest of your life as long as you are
24 deemed to be a threat of harm to yourself or others. Do
25 you understand that?

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 MR. BRIGHT: Yes, sir.

2 THE COURT: Do you understand that you will not be
3 eligible for parole for whatever sentence I impose in
4 this case? Do you understand that?

5 MR. BRIGHT: Yes, sir.

6 THE COURT: Knowing all that do you wish to plead
7 guilty or not guilty to criminal sexual conduct in the
8 second degree?

9 MR. BRIGHT: Guilty.

10 THE COURT: Has anybody promised you anything or
11 threatened you in any way to get you to plead guilty?

12 MR. BRIGHT: No, sir.

13 THE COURT: Are you pleading guilty voluntarily?

14 MR. BRIGHT: Yes, sir.

15 THE COURT: Are you satisfied with your lawyer?

16 MR. BRIGHT: Yes, sir.

17 THE COURT: Are you pleading guilty to this crime
18 because you committed this crime?

19 MR. BRIGHT: Yes, sir.

20 THE COURT: I need you to listen carefully while
21 the Solicitor gives me the facts of your case, okay? All
22 right.

23 MS. HERRING-LASH: Your Honor, as I said and as you
24 can see he was originally indicted on this for criminal
25 sexual conduct with a minor in the first degree because

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 he is already on the sex offender registry and he is
2 being allowed to plead to zero to 20 criminal sexual
3 conduct with a minor second degree.

4 THE COURT: All right.

5 MS. HERRING-LASH: The case that we're going
6 forward on here today, Your Honor the victim in that case
7 was 15 years of age. His name was [Minor Victim]. He
8 is in court along with his mother and father and other
9 family members and his mother would like to address the
10 court at the appropriate time.

11 THE COURT: All right.

12 MS. HERRING-LASH: The child was walking along near
13 his residence to a grocery store around 7 p.m. on May the
14 13th of 2015. The defendant came up beside him, stopped
15 him -- the defendant was driving his car, stopped him and
16 asked him if he had any weed. The child said no. He
17 told him to get in the car and he would find some weed.
18 [Minor] said he got in the car. They drove around.

19 The defendant gave him alcohol to drink and
20 eventually drove him to a Church's Chicken and then to a
21 parking lot in North Charleston where he sexually
22 assaulted him in the car. He then took the victim back
23 home and dropped him off. In the meanwhile [Minor]
24 parents, Mr. and Mrs. [redacted] had reported him as a
25 missing child because he had never like stayed out late

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 at night and they reported him as a missing child. When
2 he arrived home his parents both said he was so
3 intoxicated he was having a very difficult time and they
4 called EMS to transport him to the emergency room because
5 of that.

6 The next day he disclosed that during that time that
7 the -- he told them a stranger took him in the car. A
8 man got me in the car, got me in the car is what he said.
9 He told them the next day that he had actually been
10 sexually assaulted while in the car. He was very vague
11 in the beginning but eventually he gave the North
12 Charleston police detective the details.

13 He was able to describe the defendant and the car
14 but since Mr. Bright was a stranger they had no clue as
15 to who he was. That was on May the 13th this happened.
16 On May the 18th North Charleston officers were called to
17 a bus stop where a 14 year old had been stopped and asked
18 if he wanted or had weed and he wanted to go and get
19 weed. That child said no and got onto the bus and
20 reported to the bus driver what had just happened.

21 Down the road almost at the same time a 15 year old
22 was waiting at a bus stop to get on. He was approached
23 and asked if he wanted weed. He got on the bus also so
24 simultaneously almost the two bus drivers were calling
25 law enforcement. And fortunately when law enforcement

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 got there Mr. Bright was apprehended. And then later on
2 when looking at the cases they found another case in
3 January where a 12 year old had been approached and asked
4 to go to Chuck E. Cheese and to give him some money.
5 That child ran and told immediately; still the same car
6 and description.

7 While the officer that was investigating the sexual
8 assault heard another officer talking about the car and
9 the defendant and the situation she recognized how
10 similar that was. So they brought the victim back in and
11 he was able to identify that that was the car and the
12 defendant and that's how they were able to locate Mr.
13 Bright on this sexual assault case.

14 Your Honor, he has a prior 2009 giving false
15 information, a prior 2011 DUS, a 2012 criminal
16 solicitation of a minor; that is what he is on the sexual
17 registry for, and sex offender registry violation in
18 2013.

19 THE COURT: All right.

20 MS. HERRING-LASH: And Your Honor, when you would
21 like to hear from Ms. [REDACTED] she would like to address
22 the court.

23 THE COURT: Mr. Bright, do you understand what the
24 allegations are against you?

25 MR. BRIGHT: Yes, sir.

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 THE COURT: Is that what happened in this case?

2 MR. BRIGHT: Yes, sir.

3 THE COURT: All right. And according to the
4 sentencing sheet you were born in 1980, is that correct?

5 MR. BRIGHT: Yes, sir.

6 THE COURT: Mr. Cochran, anything in mitigation?

7 MR. COCHRAN: Your Honor, if I could withhold my
8 mitigation until the victim's family speaks?

9 THE COURT: I hear from the victim's last.

10 MR. COCHRAN: Yes, Your Honor. I've represented
11 Mr. Bright for some time now. He has been in jail a
12 little over a year I believe. And he -- his parents are
13 here today. I've spoken with him at length about this
14 case and with his parents at length about this case. And
15 we have -- his parents are essentially at a loss as to
16 how this had all happened.

17 And we kept talking to Dederick and kept talking to
18 Dederick and eventually he did sort of break down and
19 talk to his father about past sexual abuse that he had
20 been a victim of as a young child. And he tells me that
21 this occurred from the time he was seven until about the
22 time he was 13. And after that it was sort of like a
23 shell came off of him in terms of how we were
24 interacting. And it's a situation that him and his
25 family are going to have to deal with obviously moving

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 forward. But, you know, I explained to Dederick that was
2 information that I think is crucial for me to have as his
3 attorney but that it is not a defense. And he
4 understands that it is not an excuse. He understands
5 that it is merely an explanation of how he got to this
6 point. This is a person who is perfectly capable of
7 working, has had a great home life, two very supportive
8 parents who like I said are here today. And he's had a
9 good life.

10 He was working at Detyens Shipyard at the time he
11 was arrested. He was trying to move on from this past
12 offense that he had been convicted of. And these demons
13 kept coming back up into his life. And I think that his
14 abuse of alcohol and drugs has led to the decisions when
15 he has been in the moment.

16 But obviously the root cause of what has brought him
17 to this point has been this past trauma that he, himself,
18 was the victim of. And these are such difficult cases
19 because you know that's one of the primary reasons I
20 think that these offenses are looked at with such
21 severity is because of the consequences it can have on a
22 victim to then victimize other people when they are
23 adults. And so it has been a cycle and Mr. Bright has
24 been a victim of that cycle and has turned into a
25 perpetrator. So like I said, Your Honor, we understand

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 that is not a defense or an excuse but we would ask that
2 Your Honor take that as an explanation as a reason for
3 leniency on Mr. Bright.

4 His parents have constantly been talking to me about
5 his need for treatment, some kind of counseling, some
6 kind of sex abuse treatment, sex offender treatment. Mr.
7 Bright has been almost desperate when he talks to me
8 about his need for those kinds of things. He has never
9 received any kind of counseling or therapy in his life.

10 So at this point I understand the severity of these
11 charges and accusations we're not asking for probation.
12 We're asking for an active sentence in this case. But we
13 would ask for an active sentence that allows him to get
14 out while he is still a young man and able to pursue
15 therapy and counseling and actually receive a benefit
16 from it. He has an 11 year old daughter and has a close
17 relationship with her and he would like to get out while
18 she is still a kid.

19 Respectfully we would request Your Honor to sentence
20 him to something in the neighborhood of five years
21 followed by supervision with the requirements that he
22 receive the therapy and counseling that I think he needs
23 and he understands he needs and is desperate frankly to
24 have. And I don't believe he can receive those kinds of
25 things necessarily in the Department of Corrections but I

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 believe that there are certain things that he can pursue
2 while there to help him to reintegrate if he is given the
3 opportunity to get out and be on probation and pursue
4 those things while on the outside.

5 So this is an 85 percent so five years is still
6 significant or between five and ten years would still be
7 significant time. We would respectfully request Your
8 Honor to consider that. And I don't know if my client
9 would like to speak.

10 THE COURT: All right. Mr. Bright, anything you
11 want to say?

12 MR. BRIGHT: Yes. I just would like to apologize
13 to the family and apologize to the victim.

14 THE COURT: All right. Does the victim wish to
15 speak?

16 MS. HERRING-LASH: Yes, Your Honor. Mrs. [REDACTED] is
17 going to speak for her son and her family.

18 THE COURT: All right. Who is going to speak?

19 MS. HERRING-LASH: Mrs. [REDACTED]

20 THE COURT: And your name, ma'am?

21 MRS. [REDACTED] I'm [REDACTED].

22 THE COURT: Could you spell your first name,
23 please?

24 MRS. [REDACTED] Z as in zebra, O-N-D as in dog, R-I-A.

25 THE COURT: All right. Mrs. Bright, what would

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 you like to say -- I'm sorry, Mrs. [REDACTED] what would you
2 like to say?

3 MRS. [REDACTED] I wrote something that I wanted to
4 read but I changed my mind listening to all this. What
5 has happened to [REDACTED] Minor and our family has really changed
6 our perspective on how we see a whole lot. And its hurt,
7 and it has been painful.

8 As a parent and I can speak for both my husband and
9 I as parents you feel guilty because you wasn't there to
10 help him. And you do your best to try to help soothe and
11 calm his emotions but at the same time we have to keep
12 encouraging him to keep going because we don't want him
13 to be standing where this man is today.

14 And as far as 20 years personally I don't think
15 that's enough because in 20 years that doesn't
16 necessarily mean my son is going to forget what has
17 happened to him. I just think we need to keep
18 encouraging him to be better than what has happened to
19 him and do better and not to be a victim or caught again
20 and not to make somebody else his victim because that's
21 an excuse. So, personally I just wish it could be life
22 but that's just me.

23 THE COURT: All right. Thank you, ma'am. What
24 was his prior record again?

25 MS. HERRING-LASH: A 2009 giving false information

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 to law enforcement, 2011 DUS, a 2012 giving false
2 information and a 2012 criminal solicitation of a minor.

3 THE COURT: And what did he get on that?

4 MS. HERRING-LASH: On that he got three years
5 suspended on 31 days and two years probation. And then
6 he also has a sex offender registry violation in 2013.

7 THE COURT: All right.

8 MS. HERRING-LASH: And he may still be on some of
9 that probation, Your Honor, but they didn't have
10 paperwork.

11 PROBATION AGENT: We don't have the paperwork, Your
12 Honor, but he is still on probation. He is in a pending
13 warrant status, which a warrant was already served on
14 him. It was in reference to the new charges that he
15 received.

16 THE COURT: So what is his suspended sentence?

17 PROBATION AGENT: Three years suspended upon the
18 service of 31 days and two years probation.

19 MS. HERRING-LASH: That's the probation he received
20 when he pled to the criminal solicitation of a minor.

21 PROBATION AGENT: Yes, Your Honor.

22 THE COURT: All right. Mr. Bright, you understand
23 that by pleading guilty here today that will probably
24 constitute a violation of your probation for which the
25 suspended sentence of three years could be imposed, which

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

1 means that if that ran consecutive to this you could go
2 to jail for 23 years. Do you understand that?

3 MR. BRIGHT: Yes, sir.

4 THE COURT: And knowing that do you still want to
5 plead guilty to this charge?

6 MR. BRIGHT: Yes, sir.

7 THE COURT: Okay. And what was the sentencing
8 date on that?

9 PROBATION AGENT: September the 5th of 2012.

10 [Whereupon, the court reviews documents]

11 THE COURT: All right Mr. Bright; I will accept
12 your guilty plea. I find that it is made knowingly,
13 voluntarily, fully advised of your rights as a defendant
14 and the nature of the charge against you and the
15 consequences of your guilty plea. I also find that there
16 is a factual basis to support the charge against you.

17 The sentence of the court is that you be confined to
18 the State Department of Corrections for 12 years. You
19 will be given credit for any time served thus far. You
20 are to be placed on the central registry for child abuse
21 and neglect.

22 You're also going to be required to have GPS
23 monitoring upon any release. This sentence will run
24 concurrent with the sentence imposed on September 5th,
25 2012.

State v Dederick Bright
2016-GS-10-5635
Guilty Plea

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MR. COCHRAN: Thank you, Your Honor.

MS. HERRING-LASH: Thank you, Your Honor.

*****END OF TRANSCRIPT OF RECORD*****

FORM 5

2017-CP-10-2504
IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA)
County of CHARLESTON)
DEDERICK BRIGHT *369263)
Full name and prison number (if any) of Applicant)

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

FILED
2017 AUG 31 PM 3:30
JULIE A. HIRSTONG
CLERK OF COURT

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 MacDougall Corr. Inst., 1516 Old Gilliard Rd. Ridgeville, SC 29472
2. Name and location of Court which imposed sentence Ninth Circuit Court of General Sessions, Chas. Co., 100 BROAD ST. CHAS, SC 29401
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Criminal Sexual Conduct w/a Minor ^{2nd} degree. Warr. # 2015A1010202196
 - (b) _____

(c) _____

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

(a) AUGUST 06, 2016, (12 years imprisonment)

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

No.

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

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

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

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) I had not been made aware of the possibility.

(b) _____

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

- (a) INEFFECTIVE ASSISTANCE OF COUNSEL: COERCED INTO
- (b) PLEADING GUILTY.
- (c) _____

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

- (a) FAILED TO INVESTIGATE CASE AND STATED I HAD
- (b) BEEN INDICTED PRIOR TO PLEA WHEN I HADN'T
- (c) BEEN.

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

- (a) any petition in a State Court under South Carolina Law? No.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No.
- (d) any other petitions, motions or applications in this or any other Court? No.

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

- (a) the specific nature thereof:
 - i. _____
 - ii. N/A
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. N/A
 - iii. _____
 - iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____ N/A _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____ N/A _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____ N/A _____
- 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. _____ N/A _____
- iii. _____

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

- i. _____
- ii. _____ N/A _____
- iii. _____

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

- (a) I HAVEN'T BEEN MADE AWARE OF ANYTHING
- (b) BY MY COUNSEL PERTAINING TO APPEAL.
- (c) _____

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

- (a) your arraignment and plea? PLEA.
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

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

- (a) the name and address of each attorney who represented you:
 - i. CHARLES W. COCHRAN, PUBLIC DEFENDER
NINTH CIRCUIT'S PUBLIC DEFENDER'S OFFICE
 - ii. MEETING ST., CHARLESTON, SC 29401
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. PLEA.
 - ii. _____
 - iii. _____

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

TO BE GIVEN FAIR CONSIDERATION OF THE LESSER
INCLUDED OFFENSE OF CRIME IN WHICH I'M
CHARGED AND IT'S ATTENDENT SENTENCE.

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

No.

STATE OF SOUTH CAROLINA)

County of Berkeley)

VERIFICATION

I, Dederick Bright, 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.

Dederick Bright

SWORN to and subscribed before me this 29th
day of August, 2017.

Nicole R. Chapman (L.S.)
Notary Public

My Commission Expires: 12-22-2026

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

I, DEDERICK BRIGHT # 369263, 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.

Dederick Bright
Applicant

SWORN or affirmed to and subscribed before me this
29th day of August, 2017.

Nicole R. Chapman
Notary Public

My Commission Expires: 12-22-2026

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
)	
DEDERICK T. BRIGHT,)	
S.C.D.C. No. 369263,	)	Case No. 2017-CP-10-4504
Applicant,)	
)	
v.	)	RETURN AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
STATE OF SOUTH CAROLINA,)	
Respondent.)	
)	

In response to the post-conviction relief application filed August 31, 2017, Respondent would show this Court:

I.

Dederick T. Bright (“Applicant”) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. During its October 2015 term of court, the Charleston County Grand Jury indicted Applicant for first-degree criminal sexual conduct with a minor (2015-GS-10-5635) stemming from his sexual assault of a fifteen-year-old victim in a parking lot of a Church’s Chicken restaurant in North Charleston. He was represented by Assistant Public Defender Charles Cochran represented Applicant. Assistant Solicitor Deborah Herring-Lash prosecuted the case.

On August 8, 2016, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Benjamin H. Culbertson, circuit court judge, and waived presentment to the Charleston County Grand Jury to second-degree criminal sexual conduct with a minor. During the plea proceeding Applicant informed Judge Culbertson he was pleading guilty because he was guilty, agreed with the facts giving rise to the charge as recited by the solicitor, stated he had not been promised or threatened to induce his guilty plea, and stated he was satisfied with his attorney’s representation. Judge Culbertson sentenced Applicant to twelve

years imprisonment. The State dismissed the first-degree criminal sexual conduct with a minor indictment as part of the plea agreement. Applicant did not appeal his guilty plea or sentence.

II.

In his *pro se* application for post-conviction relief, Applicant alleges he is being held in custody unlawfully due to ineffective assistance of counsel for coercing his into pleading guilty, failing to investigate his case, and stating that he had been indicted when he had not.

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

III.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment. Strickland, 466 U.S. 668. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. Respondent notes Applicant advised the plea court he was fully satisfied with counsel's performance. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent also moves for a more definite statement in regards to his allegation of ineffective assistance of counsel. In his Application, Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claim are based. The Uniform Post-Conviction Procedure Act requires the Applicant to

“specifically set forth the grounds upon which the application is based.” S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Applicant states that once he obtains counsel, he will amend his application to set forth additional grounds for relief. Because Applicant is now represented by Counsel, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR 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), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR 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), SCRPC.

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 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.

VI.

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

VII.

WHEREFORE, having made its Return, Respondent requests Applicant provide a more definite statement of his claims, and an evidentiary hearing be held on any claims so requiring one.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: *Megan Harrigan Jameson*
ATTORNEYS FOR RESPONDENT

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

12/12, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 DEDERICK BRIGHT, #369263)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS


2017-CP-10-4504

AFFIDAVIT OF SERVICE BY MAIL

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 and Motion for a More Definite Statement in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney Duane Davis, Esquire
Lowcountry Law Office
4000 Faber Place Drive, Suite 300
Charleston, SC 29405

DATED this the 12th day of December, 2017.



 Jennifer Jenkinson, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
	)	CASE NO: 2017-CP-10-4504
DEDERICK BRIGHT,)	
)	
Applicant,)	
)	
vs.	)	AMENDED APPLICATION FOR
	)	POST CONVICTION RELIEF
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	
)	

2018 FEB 22 PM 4:40
 FILED
 JULIE J. ARSTRONG
 CLERK OF COURT

The Applicant, Dederick Bright, now having the benefit of appointed counsel alleges the following:

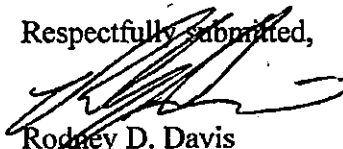
1. Dederick Bright is detained at MacDougall Correctional Institution under Inmate Number: 369263.
2. He was convicted and sentenced in Charleston County for Criminal Sexual Conduct with a Minor, Second Degree on August 8 , 2016, on a waiver of Indictment.
3. The Honorable Benjamin H. Culbertson sentenced the Applicant to twelve (12) years incarceration.
4. He was represented by Charles Cochran on this charge (Applicant's attorney).
5. The Applicant's attorney advised the Applicant to plead guilty on the charges.
6. The Applicant did not appeal his conviction or sentence.
7. The Applicant filed an *in forma pauperis* application for post conviction relief on August 31, 2017.
8. The undersigned counsel, Rodney D. Davis, was appointed to represent the Applicant on September 18, 2017.
9. The State filed a Return on or about December 12, 2017.
10. In addition to the grounds set forth in the original Application, it is further alleged that Applicant's attorney provided ineffective assistance of counsel by

failing to ensure that a substantial factual basis was presented by the State at the guilty plea.

11. Absent a complete factual basis for the plea, the Court lacked the ability to accept the plea and impose sentence on the above-listed charge.

Wherefore, based on this Amended Application, the Applicant requests that a hearing on the merits scheduled.

Respectfully submitted,



Rodney D. Davis
Attorney for Applicant
4000 Faber Place Drive, Suite 300
Charleston, SC 29405
Davis@LowcountryLawOffice.com
(843) 323-4353

February 21, 2018

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STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF CHARLESTON NINTH JUDICIAL CIRCUIT
2017-CP-10-4504

DEDERICK BRIGHT,)
) TRANSCRIPT OF
) RECORD
)
) VS.
) FEBRUARY 27, 2018
THE STATE OF SOUTH) CHARLESTON, SC
CAROLINA,)
)
) RESPONDENT.

B E F O R E:

HONORABLE THOMAS RUSSO

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

RASHEEDA CLEVELAND, ESQUIRE
Attorney for the Respondent

RODNEY DAVIS, ESQUIRE
Attorney for the Applicant

* * * * *

Ruth C. Weese, RDR

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I N D E X

Page

POST-CONVICTION RELIEF HEARING 3

WITNESS

Dederick Bright DIRECT BY MR. DAVIS 8

CROSS BY MS. CLEVELAND 28

REDIRECT BY MR. DAVIS 30

RE-CROSS BY MS. CLEVELAND 32

Charles Cochran DIRECT BY MR. DAVIS 33

CROSS BY MS. CLEVELAND 45

CLOSING ARGUMENT:

MR. DAVIS 49

MS. CLEVELAND 59

CERTIFICATE OF REPORTER 63

****NO EXHIBITS INTRODUCED****

1 (The following proceedings were held
2 February 27, 2018, Charleston County, South
3 Carolina, @ 10:05 a.m.)

4 THE COURT: Thank you, folks. Please
5 have a seat. Are we ready to get started?

6 MS. CLEVELAND: Your Honor, our first
7 matter is Dederick Bright versus the State of South
8 Carolina, docket number 2017-CP-10-4504. Mr.
9 Bright was indicted at the October 2015 term of the
10 Charleston County grand jury for First Degree
11 Criminal Sexual Assault with a Minor. On
12 August 8th, 2016, Mr. Bright appeared before the
13 Honorable Ben Culbertson and he waived presentment
14 to the Charleston County grand jury and pled guilty
15 to Second Degree Criminal Sexual Conduct with a
16 minor. He was represented by Mr. Charles Cochran
17 and Judge Culbertson sentenced him to 12 years in
18 imprisonment. The sentence was to run concurrent
19 with the previous sentence that was imposed on Mr.
20 Bright in 2012. Mr. Bright did not appeal his
21 guilty plea or sentence. He filed this post
22 conviction relief action on August 31st, 2017,
23 alleging ineffective assistance of counsel. He is
24 present in the courtroom today and represented by
25 Mr. Rodney Davis.

1 THE COURT: All right. Mr. Davis.

2 MR. DAVIS: Good morning, Your Honor.

3 Thank you for the little extra time to deal with
4 the clients that were here this morning.

5 Judge, as a preliminary matter just for
6 the record, I have spoken with Mr. Bright on
7 multiple occasions, including this morning. Thank
8 you for the time to do that. I find him very clear
9 eyed and aware of exactly what's going on, but I
10 will tell the Court that he does have some mental
11 health issues, suffers from depression, major
12 depression order with psychotic features. While in
13 SCDC, he is down there in MacDougall. He has been
14 prescribed Zoloft, Risperdal and Remeron which he
15 takes as prescribed. We had a situation yesterday
16 with one of my clients as well.

17 This morning he did not get and he will
18 tell you in a moment two of those medications he
19 normally would. But he did have his prescribed
20 medication last night before they transported him
21 this morning. I have spoken with him, reviewed
22 briefly our goals today. I find him to be aware of
23 what's going on, but I just wanted to bring that to
24 the Court's attention and get that on the record.

25 THE COURT: Okay. Mr. Bright, this

1 morning -- I guess the gentleman that was before me
2 yesterday, he had not gotten his medication
3 yesterday morning because they had left so early
4 and the nurse had not come around. Was that your
5 situation?

6 THE APPLICANT: Yes, sir.

7 THE COURT: But did you have your
8 medication last night?

9 THE APPLICANT: Yes, sir.

10 THE COURT: All right. The fact that
11 you have not had your medication today, how are you
12 doing?

13 THE APPLICANT: I'm fine.

14 THE COURT: You are fine?

15 THE APPLICANT: Um-hmm.

16 THE COURT: Okay. You feel like you
17 understand your conversations with Mr. Davis and
18 everything?

19 THE APPLICANT: Yes, sir.

20 THE COURT: All right. Are you ready
21 to proceed then forward with your hearing?

22 THE APPLICANT: Yes, sir.

23 THE COURT: Here today?

24 MR. DAVIS: Judge on that issue, in
25 addition to what the attorney general indicated to

1 you about the charge that he was convicted of, it
2 began as a CSC with a Minor First Degree which is
3 10 to 30 and 85 percent and a strike. He pled
4 to CSC with a Minor Second which is to zero to
5 twenty. We have talked about that. We talked
6 about what the risk of a PCR win is actually, that
7 it starts him over.

8 In addition, there were other charges
9 there were pending at the time, two of which were
10 nolle prossed because the status sheet says so,
11 they did not have any elements. So I'm not
12 concerned about those coming back. But there were
13 two others which were solicitation of a minor which
14 were dismissed. One says pled to CSC with a minor
15 which would be this charge. Another one the
16 indication is pled to another charge with the same
17 victim. So there could be three charges that he
18 would be facing a CSC with a Minor First and two
19 solicitations, one from this incident and one from
20 another incident. And if you could just simply go
21 over that with him on the record.

22 THE COURT: Sure. Mr. Bright, and I
23 know you have talked with Mr. Davis, I have limited
24 authority on what I can do as sitting as a PCR
25 judge. The law provides that if I agree with your

1 application and everything that you share with me
2 here today, the only authority I have is that I can
3 put you back in the position you were in prior to
4 entering this plea. I have no authority to alter
5 or to change your sentence or anything of that
6 nature. All I can do is put you back where you
7 were before you entered this plea and so that
8 instead of this being a CSC with a Minor First
9 Degree -- the plea was to a Second Degree, it would
10 go back to a First Degree. Do you understand that?

11 THE APPLICANT: Yes, sir.

12 THE COURT: And then the two charges
13 that they dismissed, those two charges would come
14 back and you would be facing those. Do you
15 understand that?

16 THE APPLICANT: Yes, sir.

17 THE COURT: Any plea offers or any plea
18 negotiations that the State may have made, they
19 would no longer be bound by those. That doesn't
20 mean that you could not negotiate with them, but it
21 means that they are not bound by any prior
22 agreements. Do you understand that?

23 THE APPLICANT: Yes, sir.

24 THE COURT: Okay. So if I were to --
25 if you were to be successful today and I were to

1 agree with you and grant your application, you
2 would go back facing the CSC charge as a First
3 Degree and you would also have those other two
4 charges that you would have to deal with as well.
5 Do you understand that?

6 THE APPLICANT: Yes, sir.

7 THE COURT: Okay. Understanding those
8 things, you still wish to go forward with your
9 application?

10 THE APPLICANT: Yes, sir.

11 THE COURT: All right, sir. We will
12 certainly honor that and we can do that. If you
13 are ready?

14 MR. DAVIS: Thank you very much, Your
15 Honor. We would call Mr. Bright as our first
16 witness.

17 THE COURT: Mr. Bright, if you could
18 come around and be sworn please, sir.

19 DEDERICK BRIGHT

20 having been duly sworn, testifies as follows:

21 DIRECT EXAMINATION

22 BY MR. DAVIS:

23 Q. Mr. Bright, can you state your full
24 name for the court reporter and spell your last
25 name?

1 A. Dederick Bright, B-R-I-G-H-T.

2 Q. Okay. Just a little bit of background.

3 How far did you go in school?

4 A. Twelfth grade.

5 Q. Graduate?

6 A. Yes, sir.

7 Q. Okay. And where were you born and
8 raised?

9 A. Charleston.

10 Q. And how old are you currently?

11 A. I'm good.

12 Q. How old are you?

13 A. How old am I?

14 THE COURT: I said you thought how are
15 you.

16 A. Thirty-seven.

17 Q. All right. And now, after you
18 graduated James Island High School, did you do some
19 schooling after that?

20 A. Yes, I went to Trident Tech for a
21 while.

22 Q. Okay. And now we talked to the judge
23 before you started testifying. You do have some
24 depression issues that you are dealing with,
25 correct?

1 A. Yes, sir.

2 Q. Okay. And in school did you have some
3 writing or reading or writing issues?

4 A. Yes, sir. I was in resource for
5 reading and math.

6 Q. But did you go ahead and finish up and
7 get your diploma, right?

8 A. Yes.

9 Q. Good. Now, you heard the judge talking
10 about the charges we are here to complain about.
11 Who was the attorney that represented you on those
12 charges?

13 A. Charles Cochran.

14 Q. Do you see him in the courtroom today?

15 A. Yes, sir.

16 Q. And let's talk to Judge Russo about
17 during the course of his representation of you, how
18 many times would you say you all met to prepare
19 about this case?

20 A. He came to the county jail maybe two or
21 three times, but when he came he told me that he
22 didn't know anything about the case and he never
23 heard anything about what was going on.

24 Q. Would this have been soon after your
25 arrest or later on these first two or three months

1 at the jail?

2 A. Just about every time he came to see me
3 it wasn't no information on the case.

4 Q. Let me jump ahead to something. Did he
5 ever provide you what may be referred to as
6 discovery or Rule 5? Did he ever give you anything
7 named that?

8 A. When I first got -- came into the
9 jailhouse I got I think it was a Rule 5, but...

10 Q. Do you recall what was contained in
11 that?

12 A. It was information about the case.

13 Q. Okay. Do you recall if it was police
14 reports, witness statements?

15 A. I think witness statements.

16 Q. Okay. So now in these first few
17 meetings that you talked about where you met you at
18 the jail and you had some paperwork, did you all
19 ever review that paperwork?

20 A. No.

21 Q. Now, these first two or three meetings
22 when you get the paperwork and you are talking, how
23 long would you -- do you recall those meetings
24 lasting?

25 A. Maybe like 15, 20 minutes.

1 Q. Now, did you ever make bond on this
2 charge that you got out of jail or did you stay in
3 until you went to court?

4 A. Stayed in until I went to court.

5 Q. So were there ever any meetings with
6 Mr. Cochran at his office?

7 A. No.

8 Q. Were there ever any meetings here at
9 the courthouse with Mr. Cochran?

10 A. Yes, the one we came to for the final
11 court date.

12 Q. Okay. The day you pled guilty?

13 A. Yes.

14 Q. All right. So if we are adding up all
15 the times you and Mr. Cochran met either at the
16 jail because you didn't make bond or here at the
17 courthouse, how many times total would you say you
18 all met?

19 A. Maybe three or four times.

20 Q. Okay. Were there ever at -- the public
21 defender's office has the ability to do a video
22 chat with folks at the county jail. Did he ever
23 take advantage of that to meet with you by video?

24 A. When he came to see me he was at the
25 county jail.

1 Q. So you don't recall --

2 A. On the screen at the county jail. It
3 wasn't in his office.

4 Q. Okay. Let's get a little more specific
5 about what you are all were discussing. Did he
6 ever talk to you about what solicitation of a minor
7 meant, what that law was? Did he tell you that?

8 A. No.

9 Q. Did he ever tell you what the elements
10 of that charge were, what like the State would have
11 to prove to a jury if you went to trial, what they
12 have to prove to convict you of solicitation of a
13 minor?

14 A. No.

15 Q. What about as to Criminal Sexual
16 Conduct with a Minor First Degree?

17 A. All he told me is that carries zero to
18 twenty years.

19 Q. For a second let's talk about Criminal
20 Sexual Conduct with a Minor First Degree. Did he
21 talk to you about that one?

22 A. No.

23 Q. That's what you were originally
24 arrested for though, right?

25 A. Right.

1 Q. Okay. So now you remember zero to
2 twenty. Did he also talk to you then about
3 Criminal Sexual Conduct with a Minor Second Degree?

4 A. Yes.

5 Q. Told you what it carried, right?

6 A. Um-hmm.

7 Q. You need to say yes or no.

8 A. Yes.

9 Q. Did he ever, though, tell you what the
10 definition of those crimes were?

11 A. No.

12 Q. Ever tell you what the State would have
13 to prove to convict you of those crimes?

14 A. No.

15 Q. You already talked about Criminal
16 Sexual Conduct Second, what it carried, what you
17 pled to?

18 A. Right.

19 Q. Did he tell you what Criminal Sexual
20 Conduct with a Minor First Degree carried? Do you
21 recall discussion with Mr. Cochran about that?

22 A. We didn't talk about the First Degree.
23 Every time we talked it was about the Second
24 Degree.

25 Q. And so what about the -- you had four I

1 believe solicitations with a minor. Did he ever
2 talk to you about what those carried, the possible
3 punishment for those were?

4 A. No.

5 Q. So it was all about CSC Second?

6 A. Um-hmm. From what I understand at the
7 preliminary hearing they changed from it First to
8 Second and that was like about four months after I
9 was locked up.

10 Q. Just so Judge Russo will know, were you
11 present at the preliminary hearing?

12 A. Yes, sir.

13 Q. In these meetings that he had with you,
14 Mr. Cochran had with you at the jail or let's talk
15 about those first meetings that he had with you at
16 the jail. What, if any, discussions did y'all have
17 about defenses to --

18 A. He told me he didn't have a defense for
19 me.

20 Q. -- these charges. So when he tells you
21 that what discussion would y'all have about that?

22 A. When we talked about that I was down
23 here at the courthouse and before we went into the
24 courtroom he told me he is tired of this case and I
25 would have to plead to this charge that day or I am

1 going to go to trial by December and he didn't have
2 a defense for me.

3 Q. I'm going to come to that. That was a
4 discussion you had right before you pled, right?

5 A. Yes, sir.

6 Q. Okay. Before we get to that let's talk
7 to Judge Russo about what happened early on. The
8 meetings up at the jail with him?

9 A. When he came to see me at the jailhouse
10 he didn't have anything to say about the case. I
11 mean he --

12 Q. Did he make any comment about the
13 evidence or about the strength or the weakness of
14 evidence?

15 A. None of that.

16 Q. Did he talk about it being a good case
17 for the State or a good case for you?

18 A. None of that.

19 Q. So what were your discussions about
20 when he came to meet with you?

21 A. Basically he just came to check and see
22 how are you doing, still haven't heard anything
23 yet, you know. I was getting frustrated. I talked
24 to my parents on the phone and they would ask me
25 well, he came to see you, what's going on. He's

1 not saying anything. I don't know what's going on.
2 So they start calling him and they got no answer,
3 left messages on the voice mail, wouldn't return
4 the voice messages. So they started to get
5 frustrated wondering what's going on.

6 Q. Prior to this plea you have a prior
7 record, right?

8 A. Right.

9 Q. On any prior record did you ever go to
10 trial or did you plead guilty to stuff?

11 A. Pled guilty.

12 Q. So you never --

13 A. Never.

14 Q. -- went to a trial on the charge
15 against you?

16 A. No, sir.

17 Q. Did Mr. Cochran ever describe to you
18 how a trial actually happens in the courtroom in
19 South Carolina?

20 A. No, sir.

21 Q. Talk about picking a jury?

22 A. No, sir.

23 Q. Talk about calling witnesses?

24 A. No, sir.

25 Q. Did he ever talk about your right to

1 either remain silent or your right to testify at
2 trial? Did y'all ever talk about that?

3 A. No, sir.

4 Q. So if you didn't talk about that right
5 did he ever go over questions that might be asked
6 of you if you testified?

7 A. No, sir.

8 Q. Now, he represented you on the charges
9 other than one you pled to, right?

10 A. Right.

11 Q. Okay. Was ever there any discussion
12 about if you went to trial on this big charge the
13 State would try to use some of those other arrests
14 against you? Was there ever a discussion about
15 that?

16 A. No, no, sir.

17 Q. Ever discussion about how if they tried
18 to do that he could try to block them from doing
19 that?

20 A. No, sir.

21 Q. Ever use the term Lyle or Lyle
22 evidence? You hear that from him?

23 A. No, sir.

24 Q. Now, can you tell Judge Russo based on
25 your prior conviction are you on the registry?

1 A. Yes, sir.

2 Q. Base on your prior conviction are you
3 required to be on monitor on the --

4 A. No, sir.

5 Q. -- old conviction. What -- can you
6 tell the judge what, if any, discussions Mr.
7 Cochran had with you about those two issues, the
8 monitored and registry?

9 A. The judge told me about the monitor,
10 GPS monitor.

11 Q. What about the registry?

12 A. I think he did say something about me
13 having to register, but he didn't say anything
14 about the monitor.

15 Q. When you say he, who are you talking
16 about?

17 A. Charles Cochran.

18 Q. He might have mentioned the registry,
19 but not the monitor. So did when you first hear
20 about that monitoring?

21 A. At the court date.

22 Q. From the judge?

23 A. Yes. That's my mom and dad.

24 Q. During any of these discussions with
25 Mr. Cochran did he ever talk about strike offenses

1 or charges that could lead to set up life without
2 the possibility of parole? Did you ever talk about
3 that?

4 A. No, sir.

5 Q. Now, I do want you to remind Judge
6 Russo about when you were brought over to court.
7 Okay? The day you pled guilty on August 6th, 2016?

8 A. Yes, sir.

9 Q. In front of Judge Culbertson. Do you
10 remember that?

11 A. Yes, sir.

12 Q. Were you ever brought to court prior to
13 that day?

14 A. I came to court a number of times and
15 like two or three times, about two times. They
16 cancelled it.

17 Q. Okay. So those times when you were
18 brought over, did you talk with your attorney those
19 other times?

20 A. It was -- I think one time I did. I
21 think they said he wasn't here or something like
22 that.

23 Q. Okay. And do you recall for Judge
24 Russo the one time he did come to see you other
25 than the guilty plea what y'all talked about?

1 A. I think he just told me that we were
2 going to have court today.

3 Q. Did you know what kind of court
4 proceedings you were here for? Yes or no?

5 A. I had no information.

6 Q. Okay. Now, a bit ago, I just wanted to
7 go over for Judge Russo, on the date of the plea
8 when you were brought here on August the 8th do you
9 remember meeting with Mr. Cochran in one of the
10 rooms outside or down in the basement?

11 A. It was down in the basement and they
12 brought me up. I met with him again with my father
13 and me.

14 Q. Let's go slow with that, okay? When
15 you were downstairs in the secure area, it was just
16 Mr. Cochran?

17 A. Right.

18 Q. And so what was he talking to you about
19 that day down in the basement?

20 A. When we met down in the basement he
21 came to the room and he told me that I am pleading
22 to a Second Degree Criminal Sexual Misconduct to a
23 Minor and he said carries zero to twenty. And I
24 said to zero to twenty. I'm not pleading today.
25 He was like you are going to plea to this charge

1 today. Or first he said I'm tired of this case.
2 He said you are going to plea to the charge or I'm
3 going to have you in trial by December. And I said
4 well, let me talk to my parents. They were in the
5 courtroom. And he said well, go out there and ask
6 one of the officers can you use the phone.

7 So I went out there and I looked at the
8 officers. I turned back around and came and sat
9 down. He was like -- I said I am not pleading to
10 nothing right now until I talk to my parents.
11 That's when he went in the courtroom, got my dad
12 out of the courtroom and they brought me upstairs
13 and he basically coerced my dad into convincing me
14 to plead too. And my dad left out the room, came
15 back in the courtroom and he told me well, I don't
16 even have a defense for you.

17 Q. That was Mr. Cochran who said that?

18 A. Yes.

19 Q. First of all, how long do you think the
20 meeting down in the basement just you and Mr.
21 Cochran lasted?

22 A. Maybe ten minutes.

23 Q. Had you heard the offer of Criminal
24 Sexual Conduct with a Minor Second before that
25 meeting in the basement?

1 A. Yes.

2 Q. What had been Mr. Cochran's advice on
3 that offer before the meeting in the basement?

4 A. Carries zero to twenty.

5 Q. Did he make a recommendation about
6 whether you should take it or not?

7 A. That's what he -- carries zero to
8 twenty.

9 Q. Now, in the basement here when he
10 mentions it to you again you are actually here at
11 the courthouse. What was his advice to you about
12 whether to take it or not?

13 A. He told me I'm going to take it.

14 Q. And that ten-minute meeting, that ends
15 with you wanting to talk to your folks, right?

16 A. Yes.

17 Q. Were you brought upstairs to -- go
18 ahead.

19 A. And my dad came in the visitation room
20 upstairs and I told him, I said he's not trying to
21 do anything for me.

22 Q. How long would you say the meeting
23 happened in the room up here outside the courtroom?

24 A. Maybe five or ten minutes.

25 Q. Now, was Mr. Cochran in the room or

1 was --

2 A. He was in the room too.

3 Q. Okay. So now so Judge Russo
4 understands you are up here just outside the doors
5 to the courtroom?

6 A. Um-hmm.

7 Q. How long after that five to ten-minute
8 meeting were you in the courtroom in front of Judge
9 Culbertson?

10 A. Right after that.

11 Q. Let me ask you this: When did you put
12 your signature on the sentencing sheet? Was that
13 down in the basement or up here or in the
14 courtroom?

15 A. I think it was in the courtroom.

16 Q. If you had asked for a trial do you
17 think Mr. Cochran was prepared to give you a trial
18 in December?

19 A. No, I don't think -- he didn't look
20 like he was trying to do anything for me.

21 Q. Can you tell Judge Russo anything you
22 can recall that was done to prepare for a trial?

23 A. No.

24 Q. We talked about earlier that in one of
25 the first few meetings you did get some paperwork,

1 some statements or some police reports, that kind
2 of stuff, right?

3 A. Um-hmm.

4 Q. Now, can you tell Judge Russo what you
5 told me about what you received after you filed
6 your PCR? What did you get from the public
7 defender's office?

8 A. That's when I finally got a copy of my
9 Rule 12?

10 Q. That's all right.

11 A. That's when I got all the paperwork
12 that I been asking for a while.

13 Q. Now, was it exactly the same stuff you
14 had gotten early on or was it --

15 A. No, that was like -- no, it was totally
16 different.

17 Q. Tell the judge how was it different?
18 What did you get after you filed the PCR from the
19 public defender's office that you didn't have
20 before?

21 A. The sentencing sheet and all the
22 paperwork that I been requesting for.

23 Q. All right. Mr. Bright, if you had seen
24 actions from your attorney to make you think that
25 he had been prepared for trial, would you have come

1 in front of Judge Culbertson and pled guilty or
2 would you have gone to trial?

3 A. I would have went to trial.

4 Q. Now, you understand like Judge Russo
5 mentioned you were charged with Criminal Sexual
6 Conduct with a Minor in the First Degree?

7 A. Right.

8 Q. So that's likely what the State would
9 have gone to trial on. You still would have gone
10 to trial?

11 A. Yes, sir.

12 Q. And you understand that if convicted,
13 if convicted that carries a possible punishment of
14 10 to 30 years?

15 A. Yes, sir.

16 Q. Is that still your answer?

17 A. Yes, sir.

18 Q. Even though if you lost at trial you
19 would have to get at least ten, can't go below
20 that, is that still your answer?

21 A. Yes, sir.

22 Q. You would have to serve 85 percent of
23 any sentence you get if you lost at trial?

24 A. Yes, sir.

25 Q. Is that still your answer?

1 A. Yes, sir.

2 Q. What if Mr. Cochran hadn't been pushing
3 you you are going to take this or else or if he
4 hadn't gotten your dad in there to influence you,
5 if those things hadn't happened, and you had time
6 to think about it without that pressure would you
7 have pled guilty or would you have asked for a
8 trial?

9 A. I would have asked for a trial.

10 Q. When it had been mentioned to you that
11 offer CSC Second zero to twenty, you said he talked
12 to you before the basement meeting?

13 A. Yes.

14 Q. Before? Had you ever told him before
15 that's what you wanted to plead guilty to?

16 A. Before the court date?

17 Q. Right. Before you came in here and
18 signed the sentencing sheet telling Judge
19 Culbertson all right, I'm pleading to it, when you
20 had discussions with Mr. Cochran before did you
21 ever indicate that you wanted to plead guilty to
22 CSC Second with a Minor at zero to twenty?

23 A. No, sir.

24 Q. Mr. Bright, thank you so much, sir.
25 That's all the questions I have. The attorney

1 general is going to have some questions for you.

2 CROSS-EXAMINATION

3 BY MS. CLEVELAND:

4 Q. Good morning, Mr. Bright.

5 A. Good morning.

6 Q. Mr. Bright, do you recall waiving your
7 constitutional rights at your plea hearing?

8 A. That's when I signed that paper.

9 Q. Do you recall the judge going over that
10 by pleading guilty you would be giving up a jury
11 trial?

12 A. Yes, ma'am.

13 Q. That you would be waiving your right to
14 present witnesses on your behalf and to confront
15 witnesses?

16 A. Yes, ma'am.

17 Q. Do you recall waiving presentment of
18 the indictment to the grand jury?

19 A. Yes, ma'am.

20 Q. And do you recall the plea judge
21 explaining to you what that meant, to waive
22 presentment?

23 A. Yes, ma'am.

24 Q. Do you recall telling Judge Culbertson
25 that you understood the allegations that were

1 against you?

2 A. Yes, ma'am.

3 Q. And do you recall telling him that you
4 were satisfied with the services that Mr. Cochran
5 provided to you?

6 A. Yes, ma'am.

7 Q. And that you had no complaints against
8 him?

9 A. Yes, ma'am.

10 Q. Mr. Bright, you told Judge Culbertson
11 that no one promised or threatened you into taking
12 the guilty plea; is that correct?

13 A. Yes, ma'am.

14 Q. And you also told him that you wished
15 to plead guilty, correct?

16 A. Yes, ma'am.

17 Q. And you told him that you were pleading
18 guilty because you were indeed guilty, correct?

19 A. Yes, ma'am.

20 Q. Mr. Bright, were you testifying
21 truthfully at your guilty plea hearing?

22 A. No, ma'am.

23 Q. Are you testifying truthfully here
24 today?

25 A. Yes.

1 MS. CLEVELAND: I have nothing further.

2 MR. DAVIS: Just briefly.

3 REDIRECT EXAMINATION

4 BY MR. DAVIS:

5 Q. I want to -- based on what the attorney
6 general asked you about, there's a phrase you used
7 when we talked once, see if you can recall it. Can
8 you tell me when we were talking what you said
9 about your ability to understand things?

10 A. It is kind of delayed.

11 Q. And so did it help if I went slow with
12 things?

13 A. Yes.

14 Q. Can you tell Judge Russo what waiving
15 presentment to the grand jury means? Do you even
16 know?

17 A. No.

18 Q. You signed that on your sheet and you
19 told Judge Culbertson you were, right?

20 A. Yes.

21 Q. Had you ever heard that term before you
22 talked about that with Judge Culbertson?

23 A. No.

24 Q. Waiving presentment to the grand jury?

25 A. No.

1 Q. So very specifically did Mr. Cochran
2 ever talk to you about that before you went in and
3 pled guilty?

4 A. No.

5 Q. That meeting in the basement and in the
6 meeting up here outside the courtroom and straight
7 into Judge Culbertson, can you tell Judge Russo
8 whether you were calm or excited or nervous or
9 scared? How were you feeling?

10 A. Nervous, scared and upset because I was
11 being forced to plead to something I didn't want to
12 plead to.

13 Q. So can you tell Judge Russo how it is
14 that you would have told Judge Culbertson that you
15 were fine with Mr. Cochran, you were satisfied with
16 him and yet now we are making all these complaints
17 about him? What's changed with you? Let me ask
18 you this way: Did you file a PCR immediately after
19 your guilty plea?

20 A. No.

21 Q. Did you take some time to think about
22 things?

23 A. Um-hmm.

24 Q. I need a yes or no.

25 A. Yes, sir.

1 Q. Did you have to do any more research on
2 your case before you filed your PCR, do any legal
3 research?

4 A. I was requesting for some information
5 because the judge said that there wasn't an
6 indictment.

7 Q. And like you told the judge, you got
8 some significant paperwork after you filed the PCR,
9 right?

10 A. Right.

11 Q. That you didn't have before?

12 A. No.

13 Q. Judge, for the record, his PCR was
14 filed August 31st, 2017. Thank you, Mr. Bright.
15 No other questions.

16 THE COURT: Anything further of this
17 witness?

18 MS. CLEVELAND: Just briefly.

19 RE-CROSS-EXAMINATION

20 BY MS. CLEVELAND:

21 Q. Mr. Bright, do you recall during the
22 hearing the plea judge asking you if you understood
23 why you were there?

24 A. Yes.

25 Q. And do you recall him providing with

1 you the opportunity to ask either him some
2 questions or your attorney before that proceeding
3 took place?

4 A. I'm not sure on that question.

5 Q. Let me rephrase. Do you recall the
6 judge asking if you wanted to ask your lawyer any
7 questions or if you wanted to ask him any questions
8 during the proceeding?

9 A. Yes.

10 Q. And what did you tell him?

11 A. No.

12 MS. CLEVELAND: Nothing further.

13 THE COURT: All right. Thank you, Mr.
14 Bright. You may step down, sir.

15 MR. DAVIS: We would call Mr. Cochran
16 to the stand.

17 THE COURT: Mr. Cochran, please come
18 around and be sworn, sir.

19 CHARLES COCHRAN

20 having been duly sworn, testifies as follows:

21 DIRECT EXAMINATION

22 BY MR. DAVIS:

23 Q. Mr. Cochran, are you employed with the
24 federal public defender's office?

25 A. Yes.

1 Q. And how long have you been there?

2 A. Since July, about seven months.

3 Q. And prior to that you -- immediately
4 prior to that you were at the Charleston County
5 Public Defender's Office?

6 A. Yes.

7 Q. How long were you there?

8 A. About five years, five and-a-half
9 years.

10 Q. And when did you become a lawyer?

11 A. 2008.

12 Q. And you were the sole attorney for Mr.
13 Bright's charges? You didn't get reassigned or you
14 didn't have co-counsel? You were the sole
15 attorney, correct?

16 A. Correct.

17 Q. Now, it's true that you only met with
18 him a few times at the jail and sometimes on the
19 video machines at the jail, correct?

20 A. That's correct. I would say maybe a
21 few more times than he said. I just spoke with the
22 attorney general. He was in jail for about
23 15 months and I would have seen him every 60 days
24 or so by either video or the jail. I also spoke to
25 his parents frequently on the phone. He parents

1 called very frequently and I was familiar with Mr.
2 Bright because I had represented him from the past
3 so I knew his parents as well prior to that.

4 Q. Now, as far as exactly number of
5 meetings do you have that?

6 A. I don't. I was not able to get the
7 file out of archives. I could get those numbers
8 for you though. It would be about --

9 Q. Would it surprise you if I looked at
10 that file last week?

11 A. No, it would not.

12 Q. Okay. But today you don't have your
13 file with you?

14 A. I do not.

15 Q. You have not reviewed it prior to your
16 testimony today?

17 A. I have not.

18 Q. Okay. But your testimony is your
19 general practice is to visit every 60 days or so?

20 A. Yes. That would be documented in
21 the --

22 Q. Your Honor, I'm going to ask that be
23 stricken. There's no proof to substantiate that.

24 THE COURT: Well, he can mention it
25 would be documented, but he doesn't have the

1 documentation.

2 A. My practice is to document, generally
3 this would be usually the defender data system, our
4 computer system.

5 Q. Did you attempt to access that before
6 testifying today?

7 A. I did not.

8 Q. As far as the Criminal Sexual Conduct
9 with a Minor First Degree, is it fair to
10 characterize that case as a swearing match in the
11 sense there was no DNA evidence linking Mr. Bright
12 to the sexual assault?

13 A. It would have been a swearing match if
14 he denied it, which he did not. When he discussed
15 going to trial the only defense that he ever
16 suggested to me was one of consent which I
17 repeatedly informed him was not available to him
18 because the victim was a minor.

19 Q. My next question is did you offer any
20 defenses to him?

21 A. I did not offer to fabricate any
22 defenses for him.

23 Q. My question, Mr. Cochran, is simply
24 this: Did you offer any legal defenses to Mr.
25 Bright?

1 A. He did not have any legal defense.

2 Q. So your answer is no?

3 A. Correct.

4 Q. And that's your recollection with no
5 documentation today in the courtroom that Mr.
6 Bright did not deny the accusations of the CSC with
7 a Minor First, correct?

8 A. He did not deny it. He did not deny --
9 he did not deny having some sort of sexual conduct
10 whether oral or anal sex with a person under
11 16 years old. So First Degree is based on his
12 prior, not on the age of the victim.

13 Q. But in this case it was an alleged
14 15-year old victim, correct?

15 A. Correct.

16 Q. And in this case the allegation was
17 that Mr. Bright performed oral sex on the 15-year
18 old?

19 A. Correct.

20 Q. No other witnesses because this
21 allegedly happened in a motor vehicle, correct?

22 A. That's correct. There were other
23 witnesses to corroborate suspicious behavior that
24 day because he tried to get a few other kids into
25 his car.

1 Q. And since you have been a lawyer since
2 2008 you're familiar with filing Lyle motions to
3 prevent or 404 (B) motions to prevent other bad
4 acts to be presented at trial, correct?

5 A. Correct.

6 Q. So again there's no other witness to
7 the alleged oral sex between Mr. Bright and the
8 15-year old?

9 A. That's correct.

10 Q. So since consent is not a defense based
11 on the age of the accuser, another defense could
12 have simply been insufficient evidence, correct?

13 A. Correct. If the victim refused to
14 testify maybe.

15 Q. Or if the victim was not credible,
16 correct?

17 A. Or if the victim -- if the jury does
18 not believe the victim, yes.

19 Q. Did you ever discuss -- you never did
20 discuss with Mr. Bright about the trial process in
21 South Carolina?

22 A. That's not true.

23 Q. You never did discuss with Mr. Bright
24 about his right to testify or not?

25 A. That is false.

1 Q. Did you ever prepare him for testimony
2 if he wanted to?

3 A. Yes. I would have been perfectly
4 willing to try this case.

5 Q. Can you tell the judge some of the
6 questions you went over with Mr. Bright about him
7 potentially testifying?

8 A. I wouldn't have specific notes on a
9 discussion like that. My common practice would
10 have been to talk to him about what the trial
11 process would be, what the prosecution would
12 present to try to convict him, and what we could do
13 in his defense and like you said, credibility of
14 the victim. That would have been the only thing
15 available to us so I would have discussed with him
16 cross-examination of the victim sort of being the
17 only possibility of presenting a defense since he
18 could not testify on his own behalf because he
19 admitted to the crime.

20 Q. Not to law enforcement?

21 A. I believe he did not admit it to law
22 enforcement.

23 Q. Well, there's no confession you were
24 prepared to try to block with a pretrial motion,
25 was there?

1 A. No, I wouldn't have filed -- I believe
2 this was off of -- I believe he pled on a plea
3 docket so I would not have prepared any trial
4 motions by that point if we weren't about to go to
5 trial that day. And a lot of this would have been
6 like you talked about that meeting up here with his
7 parents. That was a very extensive meeting where
8 we were basically having a very involved
9 conversation as to whether or not we were going to
10 go to trial or going to plead guilty. And I was
11 giving him the risks and rewards of pleading guilty
12 or versus going to trial. He wanted to talk to his
13 parents. We discussed it all together. He decided
14 that he wanted to plead guilty.

15 Q. So you did provide his father access to
16 speak with him in a room here outside the
17 courtroom?

18 A. Yes.

19 Q. And you were advising him on the day of
20 the plea that he should plead guilty?

21 A. I believe I was advising him that his
22 best chance of limiting prison time would be
23 through a guilty plea. Even though he was facing
24 significant time at a plea we could use mitigation
25 to try to lower that down which we were successful

1 in doing. He was giving me mitigation material.
2 He clearly wanted to plead guilty. At some point
3 he told his parents that his brother had molested
4 him as a kid and this was a revelation that day for
5 me and for his parents. Didn't really seem like
6 his parents believed him so I can't remember if I
7 actually used that in my mitigation during the
8 plea, but just an example of how this was a very
9 prolonged, emotional process between him and his
10 parents with me sort of mediator trying to get a
11 resolution. He was sort of breaking down and
12 making these claims to his parents about his
13 brother and then he decided that he wanted to go
14 forward with the plea.

15 Q. Isn't it true that prior to the guilty
16 plea day you had mentioned the CSC with a Minor
17 Second Degree offer zero to twenty to him?

18 A. Yes.

19 Q. And isn't it true that never prior to
20 the guilty plea date had he told you that he wanted
21 to accept that plea; isn't it true?

22 A. I don't believe -- yes, I don't believe
23 he would have said explicitly that he wanted to
24 plead guilty to that prior to coming to court.

25 Q. Now, at the plea -- have you had an

1 opportunity to review the transcript of the guilty
2 plea?

3 A. Just briefly.

4 Q. Okay. Your Honor, may I approach?

5 This is from the transcript, page 11, part of the
6 packet. I'm going to direct you to the beginning
7 on line 12 when Ms. Herring-Lash, that was the
8 solicitor; is that right?

9 A. Yes.

10 Q. That she is giving a factual colloquy
11 and so start on line 12. Certainly review as much
12 as you need to, but I'm going to only ask you
13 questions from line 12 to the end of page 11 so you
14 can have a chance to take a look at that.

15 A. (Witness complies with request.)

16 Q. Did you review that before the hearing?

17 A. Yeah, I reviewed this part before the
18 hearing.

19 Q. We had a chance to briefly discuss
20 things when you came to the courtroom before court
21 started, right?

22 A. Yes.

23 Q. Now, in that isn't it accurate that Ms.
24 Herrring-Lash in giving a factual recitation of the
25 offense refers to the actual conduct as sexual

1 assault?

2 A. Yes.

3 Q. She does not specifically say that
4 allegations were that Mr. Bright performed oral sex
5 on the 15-year old?

6 A. That's right.

7 Q. And now forgive me, I don't want to
8 mislead you, take as much time as you need to to
9 review the entirety of that, but at the time of
10 that factual recitation or any other part of the
11 plea you made no objection to the fact that she
12 didn't specifically describe the sexual act, did
13 you?

14 A. No, I did not. My guess for why is
15 because the victim was in the courtroom with his
16 family.

17 Q. You are familiar with your experience
18 that there are multiple ways to sexually -- to meet
19 the definition -- the legal definition of sexual
20 assault?

21 A. Correct, yes, I am.

22 Q. Various different forms of penetration
23 of the body of another, correct?

24 A. Yes.

25 (Attorney confers with client.)

1 BY MR. DAVIS:

2 Q. In representing Mr. Bright on this case
3 did you have occasion to personally interview any
4 witnesses in this case?

5 A. No, I do not.

6 Q. Did you get any information from the
7 accuser or from the solicitor's office about the
8 accuser towards the -- whether or not the 15-year
9 old wanted to come in and testify or not?

10 A. I don't recall. I mean he was present
11 at the plea. That was pretty clear. He might have
12 been present at prior court hearings, but I don't
13 remember.

14 Q. You didn't speak with him directly
15 yourself?

16 A. I did not.

17 Q. And do you recall telling Mr. Bright
18 that, in fact, the young boy did not want to come
19 to court? Do you recall that during one of the
20 meetings at the jail?

21 A. Yes, I believe that the prosecutor
22 might have mentioned to me that the reason, the
23 only reason she was offering to dismiss some of the
24 counts and let him plead to his offer was to let
25 the victim avoid taking the stand because he was

1 very embarrassed about everything.

2 Q. Thank you, Mr. Cochran. No other
3 questions.

4 CROSS-EXAMINATION

5 BY MS. CLEVELAND:

6 Q. Mr. Cochran, did Mr. Bright ever
7 indicate to you that he did not understand any
8 discussions that you had about the charges or his
9 rights?

10 A. He -- Mr. Bright frequently will claim
11 that he did not understand things. I had
12 represented Mr. Bright on a previous charge where
13 he was charged with essentially the same exact
14 conduct, but it was with an adult man. And he got
15 -- and we got that case dismissed. He then had a
16 pending probation violation so I had his file still
17 open and when he picked up these charges I was
18 assigned the case again. So I was very familiar
19 with Mr. Bright. He was familiar with me. He was
20 familiar with the process. And I was very
21 confident that he understood what was going on.

22 One of the things that he repeatedly
23 expressed to me about what he was confused about
24 was why I couldn't present the same consent defense
25 that we did the last time. And we repeatedly went

1 over the fact that that was not available to him
2 because this time the victim was under 16. And
3 that was a very repeated conversation that we had
4 every time we met. We would have gone over the
5 very basic process of what would happen if we went
6 to trial, the accusations against him. He talked
7 about it with his family. I talked about it with
8 his family. Everyone was very clear about what was
9 going on. And he was very clear about the
10 consequences. I don't know if I told him
11 specifically what he would -- what I thought he
12 would probably get, but he was very clear that
13 prison was an extremely likely outcome if he chose
14 to plead guilty.

15 Q. And whose decision was it for Mr.
16 Bright to plead guilty?

17 A. Was Mr. Bright's with extensive
18 conversations with me and his family.

19 Q. Did he ever indicate to you that he
20 wanted a trial on these charges?

21 A. He indicated to me that he wanted to
22 present a consent defense. And when I convinced
23 him that would not be defense that we would be even
24 able to present to a jury, he decided to plead
25 guilty.

1 Q. Mr. Cochran, were you prepared to go to
2 trial?

3 A. I could have been prepared. Like I
4 said, I think this was off of a plea docket. I
5 don't think we would have to go to trial that day.
6 But, yeah, I would have been well prepared to go to
7 take this case to trial.

8 Q. A few minutes ago Mr. Davis was
9 questioning you about the solicitor's recitation of
10 the facts. Did you see any basis for objecting to
11 that?

12 A. No.

13 Q. Did you feel that they were sufficient
14 to establish a substantial factual basis for
15 accepting a guilty plea?

16 A. Yes.

17 Q. One last thing. Can you briefly
18 describe the evidence that the State had against
19 Mr. Bright?

20 A. Like Mr. Davis said, this would have
21 been a case that was based mostly on the victim's
22 testimony and accusations. There would have been a
23 question as to whether or not we could have kept
24 these other witnesses out who saw Mr. Bright
25 driving around that day trying to get other kids to

1 get into his car with him. I believe that they --
2 I know that they searched the car as well and I
3 believe that they found evidence in the car that
4 was at least somewhat incriminating in terms of
5 maybe -- I might be confusing this one with another
6 case, but I believe that they searched his car and
7 found like empty beer cans or something like that,
8 but I'm not positive about that.

9 Q. What type of investigation did you do
10 in this case?

11 A. I would not have done much
12 investigation. This would have been a case that I
13 prepared by reviewing the discovery and talking
14 with Mr. Bright, determining that we would not have
15 had very many viable, if any viable defenses at
16 trial. Begun the negotiation process and then
17 guided Mr. Bright through that process. But I
18 would not have had like an investigator out talking
19 to witnesses, things like that.

20 Q. Thank you, Mr. Cochran. I have nothing
21 further.

22 THE COURT: Thank you. Any redirect?

23 MR. DAVIS: No, Your Honor.

24 THE COURT: Thank you very much, sir.

25 You may step down.

1 THE WITNESS: May I be excused?

2 THE COURT: Any objection?

3 MR. DAVIS: No objection.

4 MS. CLEVELAND: No objection.

5 THE COURT: Thank you very much. You
6 are free to go.

7 MR. DAVIS: Your Honor, if I could have
8 just a moment.

9 THE COURT: Sure.

10 (Attorney confers with client.)

11 MR. DAVIS: Your Honor, that would be
12 the Applicant's presentation. We would rest.

13 THE COURT: Thank you, sir. Ms.
14 Cleveland.

15 MS. CLEVELAND: Nothing further from
16 the State, Your Honor.

17 THE COURT: Then I will be happy to
18 hear from you.

19 MR. DAVIS: Thank you, Your Honor. May
20 it please the Court, let me deal with my issue
21 first. I specifically amended the application to
22 raise this issue. It's a novel issue. I don't
23 have a case law on point to cite to you. But in
24 reading the transcript and in this the State lays
25 out the factual presentation, Ms. Herring-Lash uses

1 the legal term, the statutory term and of course
2 you will have to review if you haven't already, you
3 may have, the Defendant gave him alcohol to drink
4 and from the transcript, page 11 starting line 19.
5 "Defendant gave him alcohol, drove him to a
6 Church's Chicken and then to a parking lot in North
7 Charleston where he sexually assaulted him in the
8 car. He took him back and dropped him off." That
9 ends at line 23.

10 As we know as lawyers and judges in
11 criminal court, there are many ways that that
12 statute could be violated. It's incumbent upon the
13 State during the factual presentation to explain
14 how it was violated. It's not enough to say, Your
15 Honor, on such and such a date Rodney Davis
16 committed a burglary. You need to know what
17 address did I enter, whether it is at night or not,
18 whether I was armed or not. There are elements to
19 whether it's Burglary First, Burglary Second
20 Violent or Burglary Third. So it's incumbent upon
21 State to lay out a full factual basis for that.

22 And Mr. Cochran speculated as to why,
23 and these are adult terms, both in the statute and
24 adult scenarios in talking about any type of sexual
25 assault. And the accuser was in the courtroom at

1 the time of the plea. If that may have affected
2 Ms. Herring-Lash, she is quite a professional. I
3 have worked with her and I have worked against her.
4 She has done these types of case for years and
5 years.

6 But in this case she didn't describe
7 whether it was sexual intercourse, anal
8 intercourse, some intrusion by an object, whether
9 it was an act done by the minor to Mr. Bright or
10 vice versa. In this case the allegation was Mr.
11 Bright had committed -- performed oral sex on the
12 minor.

13 THE COURT: The only -- and I read your
14 amended application and I looked through the
15 transcript as well. I'm not -- I don't mean to
16 speak for Ms. Cleveland. She may have a response
17 different, but I just noted -- I know every time I
18 do pleas I get a sentencing sheet. I also have the
19 indictment. And the indictment is fairly specific
20 as to what occurred or at least the allegations
21 that he is pleading to. So it may not have been
22 spoken by the solicitor on the record, but part of
23 the record is the indictment and the indictment
24 certainly would give the Court at least an
25 understanding as to what he's pleading to.

1 MR. DAVIS: Correct. But in this case
2 we had the unique situation of waiving presentment
3 because it was going from CSC First to a Second.

4 THE COURT: You still have the
5 indictment though.

6 MR. DAVIS: I understand. But since it
7 was a waiver then it wouldn't been true billed and
8 Mr. Cochran would have had -- if we need further
9 testimony on this, I would suggest, I would proffer
10 that if Mr. Cochran were asked that he would not
11 have had a copy of that waiver prior to the plea.
12 I don't know that.

13 THE COURT: A copy of the indictment.

14 MR. DAVIS: In form and in practice of
15 it being waived and again if the record -- that
16 could probably be done --

17 THE COURT: I don't know how they do it
18 here in Charleston County, but in Florence any time
19 there's a waiver of presentment it is an indictment
20 that has not gone before the grand jury, they
21 prepare an indictment which I believe they have
22 done.

23 MR. DAVIS: They do, but here we take
24 the sentencing sheet, it's a waiver. There's
25 obviously a box for initials that is being waived

1 for presentment. Just as an officer of the Court I
2 cannot think of the last time I took an unindicted
3 waiver, looks like an indictment obviously, same
4 form, just not been true billed, with me to have a
5 client sign that up. It's just not the normal
6 practice here.

7 Again, I know now I'm suggesting things
8 to the record that was not testified. If that
9 would be crucial to your determination I would ask
10 that you keep the record open and I can get an
11 affidavit from Mr. Cochran one way or the other on
12 that. Certainly that's my argument.

13 THE COURT: Well, I wasn't trying to
14 argue with you. I was just noting that because one
15 of the things that something you mentioned was
16 there are numerous -- I mean sexual assault is a
17 legal term and the statute requires that it be a
18 sexual assault, then it defines sexual assault.
19 There is a lot of different things. So I was
20 looking at that myself thinking well, if I was
21 receiving the plea I'd probably want to know how
22 that occurred. And then I saw the indictment which
23 would have -- I know when I do these I always have
24 an indictment.

25 MR. DAVIS: Certainly the Court would

1 -- what would be the situation here is whether
2 again with the change in the offense that he is
3 pleading to a lesser included that the State --

4 THE COURT: I don't think the
5 indictment changes. The only thing that made this
6 second -- made it a first was his prior conviction.

7 MR. DAVIS: Correct.

8 THE COURT: I think the allegations
9 remain the same.

10 MR. DAVIS: I don't disagree with you
11 on that.

12 THE COURT: But anyway, go ahead. I
13 didn't mean to interrupt. I am trying to fill in
14 what I noticed.

15 MR. DAVIS: I certainly understand.
16 Judge, so we would argue that if a component of a
17 plea is that it is freely, knowingly, voluntarily
18 and intelligently made, that they had advice and
19 assistance of counsel with whom they say they are
20 satisfied, and of course we are disputing that and
21 I will get to that in a moment, and finally that
22 there's a substantial factual basis for the plea.
23 We have done tens of thousand of pleas. Those are
24 the major components. We would argue that one of
25 those three is lacking through a PCR claim, the

1 target of our grief must be his attorney, and but
2 the remedy the attorney could have made during the
3 presentation is to object, say wait a second,
4 judge. We don't have all the things we need for a
5 plea. The State has not provided you a full
6 factual basis. That was not done. We would argue
7 that that prevented the Court from having the
8 authority to accept the plea because it was not a
9 complete plea.

10 And so on that basis we would ask you
11 to find ineffective assistance of counsel. If the
12 Court cannot accept it without the finding of those
13 three things, then it is not a valid plea and we
14 would ask you to vacate the conviction and sentence
15 on that ground.

16 In reverse order, so our first argument
17 grounds, I won't review everything, you have
18 listened to the testimony, you have the records,
19 but we would argue that Mr. Cochran, you saw the
20 demeanor, even his admission that he had not
21 reviewed his file. He may have confused this case
22 with another case during testimony. You can
23 consider all that when you consider whether he
24 fully prepared this case and gave effective advice
25 to Mr. Bright when he advised him to plead guilty.

1 We would argue it's not. He admitted he did not
2 interview any of the witnesses. He admitted he did
3 not prepare for a trial because it did not
4 basically -- I am paraphrasing -- gotten to that
5 stage yet. He was working on negotiations. I
6 believe his exact testimony when the State asked
7 about what preparation he did, not much
8 investigation, review of Rule 5, spoke with the
9 Defendant, Mr. Bright, and negotiated with the
10 State. We would argue that's insufficient. He on
11 his direct examination when I was questioning him I
12 asked about the defenses and he obviously
13 repeatedly wanted the Court to know Mr. Bright kept
14 raising consent as a defense. I will dovetail that
15 back into the whole issue about Mr. Bright. He is
16 educated, but he is slow. He testified to that.

17 When we were having the discussion he
18 told you about what he told me, that there's a
19 delay in understanding was the way he phrased it.
20 He's not able to explain a waiver to me, what that
21 meant. He'd never been through a jury trial ever
22 in his life, and we would argue then that
23 discussions with Mr. Cochran were somewhat limited.
24 He kept asking for a defense that was not
25 available, so says Mr. Cochran. Mr. Cochran

1 admitted on direct that -- I asked him if he
2 offered any defenses. Did you offer any defenses
3 to Mr. Bright. No, I did not offer any. Then I
4 suggested what about just didn't happen, that the
5 accuser is not being credible, not being truthful.
6 And then he conceded that could be a potential
7 defense.

8 It's incumbent upon the defense
9 attorney to say if this is -- on any case,
10 certainly this is a swearing match. No DNA, no
11 other witnesses, if -- and not that any attorney
12 has to do it the way I do, but Mr. Bright, if you
13 go to trial and if that young boy testifies and
14 they believe him, that's all they need to convict
15 you. But if they don't then they have an
16 obligation to find you not guilty. If they are not
17 convinced beyond a reasonable doubt they have to
18 find you not guilty. You can testify and explain
19 things if you want to. You don't have to. If you
20 don't you have the right to remain silent. They
21 can't hold that against you.

22 So always in a case there's the belief
23 of the accusation that needed to be discussed. I
24 would argue that it wasn't. I would argue that
25 when you contrast Mr. Bright's testimony about the

1 number of meetings and the content and the duration
2 of those meetings versus Mr. Cochran who testified
3 through memory who could have accessed the file, I
4 reviewed or the defender data which is an on line
5 program prior to testifying being able to tell you
6 exactly how many times he talked to him. He
7 didn't. So we are left with his recollection of
8 the case that ended in August of 2016.

9 So we would ask you to rely on the
10 testimony of Mr. Bright, it was insufficient
11 investigation, insufficient explanation of his
12 rights, insufficient explanation of the -- some
13 benefit certainly, other charges going away, but
14 the risks of doing that. All of that, all those
15 specific things and certainly in totality led to
16 ineffective assistance where ultimately he's in a
17 room right outside the courtroom being pressured by
18 Mr. Cochran and his father, which they both
19 testified the father joined in that discussion, you
20 better plead now or we are going to trial in
21 December. That wasn't an offer of a right, a
22 constitutional right or you go to trial. That was
23 a threat. You plead today or you are going to
24 trial in December. That was a threat and couched
25 as such. And given his need to go slow to

1 understand he was forced into a plea, that should
2 not have happened. And he has testified to you if
3 things had been done more thoroughly, if things had
4 been explained to him more thoroughly and he had
5 more time to think about it he would have not
6 accepted the plea. He would have taken his chances
7 on the higher charge, he testified about that, at
8 trial. I think he testimony is credible.

9 So we think we have met our burden
10 under those arguments. Even if my argument on the
11 insufficient factual basis is not enough to carry
12 the day, we think we have shown ineffective
13 assistance of counsel that affected the outcome
14 because he has testified to you that he would have
15 chosen the other outcome which is not to plea, but
16 to go to trial. So for those reasons as well we
17 would ask you to vacate the sentence or vacate his
18 conviction, undo his sentence, allow him to begin
19 anew.

20 THE COURT: All right. Ms. Cleveland.

21 MS. CLEVELAND: Thank you, Your Honor.

22 The State would argue that there was an effective
23 assistance of counsel. Mr. Cochran testified that
24 he met with Mr. Bright on numerous occasions. That
25 Mr. Bright was very familiar with the process, that

1 oftentimes Mr. Bright would frequently say that he
2 didn't understand things when he did. Mr. Bright
3 himself testified at the plea hearing that he
4 understood when the trial judge gave him -- when
5 the plea judge gave him an opportunity to ask
6 questions either of himself or of counsel, Mr.
7 Bright responded that he did not have any
8 questions, that he understood what was occurring.

9 When getting into the credibility issue
10 of whether Mr. Bright is testifying truthfully or
11 Mr. Cochran is testifying truthfully, in the
12 absence of having his file today, I would point out
13 that when I asked Mr. Bright was he testifying
14 truthfully at the plea hearing he said no. But
15 that today he was testifying truthfully.

16 Mr. Cochran also testified that had Mr.
17 Bright gone to trial he would have been well
18 prepared for trial. He also testified with regard
19 to the issue of the solicitor's recitation of the
20 facts that he did not see any reason for objecting
21 to that and that he felt that it was a substantial
22 factual basis laid down for plea.

23 And with regards to Mr. Davis' argument
24 with regard to the acceptance of a plea, there are
25 four things required: That the Defendant

1 understood the nature and the elements of the
2 charge, which Mr. Bright testified that he did at
3 the plea, that he was informed of the consequences
4 of the plea. He testified that he was. That he
5 was informed of the Constitutional rights that he
6 was waiving. He also testified that he was aware
7 of that. And that the record reflects there was a
8 factual basis for the plea.

9 Your Honor, you laid out my argument
10 already, but I will repeat it again, is that the
11 indictment, the warrants, the affidavits are all a
12 part of the record. The affidavit here lays out
13 the complete facts of what took place in this case.
14 The only thing that changed between the indictment
15 for the CSC First and the Second was just the
16 change in the charge, not the factual basis laid
17 down for the charge.

18 I would also like to point out the
19 Supreme Court case, a South Carolina Supreme Court
20 case, LaPiano v. State and the case number for that
21 is 270 S.C. 563. And in this case the Supreme
22 Court of South Carolina has said that by entering a
23 plea of guilty the Defendant is waiving his rights
24 to attack the conviction on the ground that the
25 judge erred in establishing a substantial factual

1 basis for accepting the plea. And that upon the
2 determination that a plea was voluntarily and
3 knowingly entered the Defendant does not have the
4 right in PCR to attack the plea on those grounds.
5 And that is insufficient under the ground that the
6 facts were sufficient to establish the offense to
7 which he pled.

8 Your Honor, we would argue that there
9 was effective assistance of counsel. There was a
10 substantial basis for the plea and that Mr. Bright
11 has failed to meet his burden today and we would
12 ask that his application be denied and dismissed
13 with prejudice. Thank you.

14 THE COURT: Thank you, ma'am. I am
15 going to ask y'all to give me the -- I'm going to
16 take this under advisement. I'm going to read
17 through the plea colloquy and look at all of that.
18 So I won't take long. I will have an answer for
19 you within the next several days, but I would like
20 to take the time to look at that.

21 MR. DAVIS: Judge, if I may, I
22 appreciate the State's cite to the case. I already
23 told you I didn't see -- I missed that case. Would
24 I have an opportunity to respond, not now, but in
25 writing?

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THE COURT: Absolutely. You can e-mail
that. We will consider it.

MR. DAVIS: Thank you very much.

(Proceedings adjourned at 11:23 a.m.)

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CERTIFICATE OF REPORTER

I, Ruth C. Weese, Registered Diplomate Reporter, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 4th day of November 2018.

Ruth C. Weese



Ruth C. Weese
Registered Diplomate
Reporter

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Charleston County Grand Jury indicted Applicant for first-degree criminal sexual conduct with a minor (2015-GS-10-5635) during its October 2015 term of court. The incident stemmed from Applicant's sexual assault of a fifteen-year-old victim in a parking lot of a Church's Chicken restaurant in North Charleston. Applicant was represented by Assistant Public Defender Charles Cochran. Assistant Solicitor Deborah Herring-Lash prosecuted the case.

On August 8, 2016, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Benjamin H. Culbertson, circuit court judge, and waived presentment to the Charleston County Grand Jury to second-degree criminal sexual conduct with a minor. During the plea proceeding, Applicant informed Judge Culbertson he was pleading guilty because he was guilty, agreed with the facts giving rise to the charge as recited by the solicitor, stated he had not been promised or threatened to induce his guilty plea, and stated he was satisfied with his attorney's representation. Judge Culbertson sentenced Applicant to twelve years imprisonment. The State dismissed the Applicant's indictment for first-degree criminal sexual conduct with a minor pursuant to the plea agreement. Applicant did not appeal his guilty plea or sentence.

TESTIMONY PRESENTED AT EVIDENTIARY HEARING

Applicant

Applicant testified that Counsel came to visit him in the county jail two or three times and that he said he did not know anything about Applicant's case. Applicant testified that he did receive his Rule 5 discovery, but that Counsel did not review it with him. Applicant testified that he met

with Counsel at the courthouse before his plea. Applicant testified that Counsel never reviewed the charge with him or the elements of the charges. Applicant testified that Counsel did review the possible sentences of the charges if he did elect to go to trial. Applicant testified that the only charge Counsel ever discussed with him was the Criminal Sexual Conduct second degree and never about the solicitation charges. Applicant testified that Counsel told him at their meetings that he did not have a defense strategy for him and that he needed to plead guilty. Applicant testified that Counsel did not discuss with him at their meetings about the evidence in the case or how strong the State's case was against him. Applicant testified that he had never been to trial on any of his previous charges and that Counsel did not review with him the trial process before he plead. Applicant testified that Counsel did not discuss with him about being monitored, but that the judge reviewed that with him. However, he did testify that Counsel discussed with him that he would have to be on the sex offender registry. Applicant testified that he was not aware why he was in court the day he plead guilty.

Applicant testified that he met with Counsel in the secure room at the courthouse the day of his plea. Applicant testified that Counsel told him that he was pleading to a Second Degree Criminal Sexual Misconduct to a Minor and that it carried a sentence of zero to twenty years. Applicant testified that he told Counsel he was not pleading to that and that Counsel told him he was tired of the case and that he would plead or be on trial by December. Applicant testified that he was not pleading to anything until he spoke with his parents, so Counsel got his dad to come talk to him. Applicant testified that Counsel coerced his dad into convincing him to plead guilty. Applicant testified that he signed the sentencing sheet in the courtroom after discussing the plea with his father. Applicant testified that Counsel coerced him into entering his guilty plea and that he would have elected to go to trial if he thought Counsel was prepared to defend him at trial.

Applicant testified that he remembered the judge reviewing his constitutional rights with him and that he would be giving those rights up if he decided to plead guilty. Applicant testified that he remembered specifically giving up his right to a jury trial and his right to confront witnesses. Applicant also testified that he remembered waiving presentment of the indictment to the jury. Applicant testified that he remembered telling the judge that he was satisfied with the services of his attorney and that he had no complaints about his service. Applicant testified that he remembered telling the judge that no one had promised or threatened him into entering into the guilty plea. Applicant testified that he was not testifying truthfully at this plea, but that he was testifying truthfully now.

Counsel

Counsel testified that he was the sole attorney for Applicant's charges. Counsel testified he met with Applicant every sixty days or so during Applicant's fifteen months in jail. Counsel also testified that he spoke with Applicant's parents because they called frequently. Counsel testified that the only defense Applicant offered to the charge of Criminal Sexual Conduct with a Minor First Degree was consent. Counsel testified that he did not offer Applicant any legal defenses because he felt that he did not have any to offer. Counsel testified that insufficiency of the evidence could have been a defense if the victim refused to testify or if the jury did not find the witness credible. Counsel testified that he reviewed with Applicant his right to testify and the trial process in South Carolina. Counsel testified that he would have been willing to prepare Applicant for trial and that he was perfectly willing to try the case. Counsel testified that the conversation with his father before he plead guilty was very in-depth and that counsel explained the risks and rewards of pleading guilty versus going to trial. Counsel testified that Applicant decided to plead guilty after reviewing the options with counsel and his father before he plead

guilty. Counsel testified that he did not object to the factual recitation by the Solicitor and her description of the act as a sexual assault. Counsel testified that he did not personally interview any witnesses. Counsel testified that the solicitor was willing to dismiss some of the charges if Applicant plead and saved the victim the embarrassment of having to testify in court.

Counsel testified that he believes that Applicant understood the process and his conversations with him. Counsel testified that Applicant was confused as to why they could not present consent as a defense, but that counsel explained to him on a number of occasions that the victim could not consent because he was underage. Counsel testified that it was Applicant's decision to plead guilty, and that once he understood he could not present the defense of consent, he did not want to proceed with a trial. Counsel testified that he would have been prepared to go to trial if that was Applicant's wish. Counsel testified that he did not object to the Solicitor's recitation of the facts because he felt that they sufficiently established a substantial factual basis for the plea. Counsel testified that he did not do much investigation in this case because it was not the sort of case that required it be done.

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, and scrutinize upon the credibility of the 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 has alleged numerous instances of ineffective assistance of counsel against plea counsel, Charles Cochran. Each allegation is addressed fully below.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S.

668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland, 466 U.S. 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland does not guarantee perfect representation, only a “reasonably competent attorney.” 466 U. S. at 687 (quoting McMann v. Richardson, 397 U. S. 759, 770 (1970)); Representation is constitutionally ineffective only if it “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair trial. Strickland, 466 U.S. at 686. Just as there is no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appears to be remote possibilities. See generally Id.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an 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 an attorney provided representation within the range of competence required in criminal cases. Butler, 286, 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland,

466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Although courts may not indulge in "post hoc rationalization" for counsel's decision making that contradicts the available evidence of counsel's actions, Wiggins, 539 U.S. at 526-527, neither may it insist counsel confirm every aspect of the strategic basis for his or her actions. There is a "strong presumption" that counsel's attention to certain issues to the exclusion of others reflects trial tactics rather than "sheer neglect." Yarborough v. Gentry, 540 U. S. 1, 8 (2003) (per curiam). After an adverse verdict at trial, even the most experienced counsel may find it difficult to resist asking whether a different strategy might have been better, and, in the course of that reflection, to magnify their own responsibility for an unfavorable outcome. Strickland, however, calls for an inquiry into the objective reasonableness of counsel's performance, not counsel's subjective state of mind. Id. at 688; Harrington v. Richter, 562 U.S. 86 (2011)

With respect to prejudice, an applicant must demonstrate "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id. at 694. It is not enough "to show that the errors had some conceivable effect on the outcome of the proceeding." Id. at 693. Counsel's errors must be "so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." Id. at 687; Harrington, 562 U.S. 86.

"Surmounting Strickland's high bar is never an easy task." Padilla v. Kentucky, 559 U.S. 356, 371 (2010). An ineffective assistance of counsel claim can function as a way to escape rules

of waiver and forfeiture and raise issues not presented at trial, and so the Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. Strickland, 466 U.S. at 689–690. Even under de novo review, the standard for judging counsel’s representation is a most deferential one. Unlike a later reviewing court, the attorney observed the relevant proceedings, knew of materials outside the record, and interacted with the client, with opposing counsel, and with the judge. It is “all too tempting” to “second-guess counsel’s assistance after conviction or adverse sentence.” Id. at 689; see also Bell v. Cone, 535 U. S. 685, 702 (2002); Lockhart v. Fretwell, 506 U. S. 364, 372 (1993). The question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Strickland, 466 U.S at 690.

In assessing prejudice under Strickland, the question is not whether a court can be certain counsel’s performance had no effect on the outcome or whether it is possible a reasonable doubt might have been established if counsel acted differently. Wong v. Belmontes, 558 U. S. 15 (2009); Strickland, 466 U.S. at 693. Instead, Strickland asks whether it is “reasonably likely” the result would have been different. Id. at 696. This does not require a showing that counsel’s actions “more likely than not altered the outcome,” but the difference between Strickland’s prejudice standard and a more-probable-than-not standard is slight and matters “only in the rarest case.” Id. at 693, 697. The likelihood of a different result must be substantial, not just conceivable. Id. at 693; Harrington, 562 U.S. 86.

Based on this standard set forth above, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional ineffectiveness of counsel as to any of his various allegations. Applicant’s allegation is addressed fully below:

Allegations

Coerced into guilty plea

Applicant alleges that his guilty plea was involuntary because he was coerced into taking it by his family and by Counsel. This Court finds that Applicant freely and voluntarily entered his guilty plea and that his allegation is without merit. This Court finds the plea transcript to be dispositive in deciding that Applicant knowingly and voluntarily entered into his guilty plea. The plea Court asked Applicant if he was being forced to plead guilty, if he was entering into the plea freely, and if he was entering into the plea voluntarily. Applicant indicated at his plea that he was entering the plea voluntarily and that he was not threatened to do so. Counsel's testimony that he did not coerce Applicant into taking the plea, nor did he tell Applicant's family to coerce him into taking the plea, was credible. Counsel also testified that Applicant's family was thoroughly involved throughout the representation and that Applicant was able to discuss the plea extensively with them. This Court finds that Applicant was not coerced into taking the guilty plea because he did so voluntarily and with the proper advice of counsel.

Based on these reasons, this Court finds plea counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

Failure to Investigate

Applicant alleges that plea counsel was ineffective for failing to properly investigate the facts of the case. Counsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. Strickland v. Washington, 466 U.S. 668, 691, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). 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, 104 S.Ct. 2052. “[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, 104 S.Ct. 2052. Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633–34 (Ct. App. 2014).

Here, Counsel testified that he reviewed the discovery in this case and that the only defense he could raise would be insufficient evidence by attacking the victim. Counsel testified that he was working toward plea negotiations due to the lack of a practical legal defense and Applicant's admission that he was guilty. Based on these reasons, this Court finds plea counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

Stating that he had been indicted when he had not

Applicant alleges that Counsel was ineffective for stating that he had been indicted when he had not. The record directly refutes this allegation. Applicant had been indicted, but waived presentment on the record when he plead to a lesser-included offense. Applicant testified that he remembered waiving presentment of the indictment at the plea proceeding.

Based on these reasons, this Court finds plea counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

The factual recitation was insufficient to substantiate the factual basis for the plea

Applicant alleges that Counsel was ineffective for failing to object to the Solicitor's recitation of the facts substantiating the factual basis for the plea. Counsel testified that he did not

object to the recitation of the facts because he felt they provided a substantial factual basis of the plea. The Court notes that the indictment, sentencing sheet, warrants, and affidavits were also a part of the record being considered by the plea judge. Moreover, the Court notes that a Defendant who enters a plea of guilty waives his rights to attack the conviction on the ground that the judge erred in establishing a substantial factual basis for accepting the plea, and that upon the determination that the plea was voluntarily and knowingly entered into, the Defendant does not have the right in post-conviction relief to attack the plea on those grounds. LoPiano v. State, 270 S.C. 563. The Court finds that plea counsel's representation did not fall below the legal threshold of "reasonableness under prevailing professional norms." Applicant failed to show a reasonable probability that, but for Counsel's alleged errors during the plea (failure to request a more specific factual basis for the plea), he would not have pleaded guilty and would have insisted on going to trial.

Based on these reasons, this Court finds that plea counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

CONCLUSION

Based on all forgoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient, nor was Applicant prejudiced by Counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

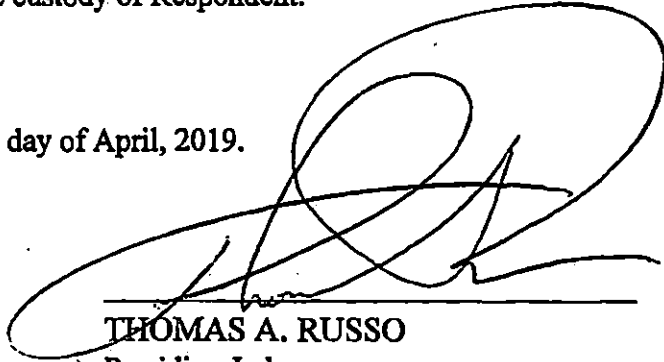
The Court notes Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-

conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 1st day of April, 2019.

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

THOMAS A. RUSSO
Presiding Judge
Ninth Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

DEDERICK TARMANYE BRIGHT

AKA: Dederick Tarmanye Bright, Dederick Tarmanye Bright

Race: Black/African American Sex: M

DOB: [redacted] SS#: [redacted]

Address: Deerwood Drive, Lot 5

City, State, Zip: North Charleston, SC 29406

DL# [redacted] SID# [redacted]

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Criminal Sexual Conduct With A Minor

In violation of § 16-03-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code #0397

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

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

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

ATTORNEY:

Deborah Herring-Lash, Assistant Solicitor SC Bar # 15083

Dederick Tarmanye Bright Defendant

[Signature] Attorney for Defendant SC Bar # 76963

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 12 days/months/years or under the Youthful Offender Act not to exceed X years and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and or payment of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 9/5/2012

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 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment

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	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 3.75
TOTAL		\$ 128.75

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: - GPS monitoring upon release

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

Clerk of Court/Deputy Clerk: [Signature] Court Reporter: [Signature]

Presiding Judge: [Signature] Judge Code: 2148 Sentence Date: Aug. 8, 2016

DHL/0304999
WITNESSES

DOCKET NO. 2015-GS-10-05635

North Charleston Police Department

The State of South Carolina
County of Charleston

AGENCY CASE NUMBER
2015-015197

FILED

10/21/2015 12:47:37 PM
JULIE J. ARMSTRONG
CLERK OF COURT

ARREST WARRANT NUMBER
2015A1010202198

COURT OF GENERAL SESSIONS
OCTOBER TERM 2015

DATE OF ARREST

05/19/2015

THE STATE

ACTION OF GRAND JURY

VS.

TRUE BILL

DEDERICK TARMANYE BRIGHT
B/M DOB: [REDACTED]

OCT 20 2015

[Signature]
Foreperson of Grand Jury

Date:

VERDICT

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR

SC Code: § 16-03-0655(A)(2)
CDR Code: 3022

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened on October 8, 2015, the Grand Jurors of Charleston County present upon their oath:

~~CRIMINAL SEXUAL CONDUCT WITH A MINOR~~

That in Charleston County, South Carolina, on or about May 13, 2015, the Defendant, Dederick Tarmanye Bright, did commit sexual battery to wit : fellatio upon the victim, [REDACTED] who was less than sixteen years of age and the defendant had previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in Section 23-3-430(C) or had been ordered to be included in the sex offender registry pursuant to Section 23-3-430(D); all in violation of Section 16-3-655(A)(2), 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.


DEBORAH HERRING-LASH
ASSISTANT SOLICITOR

ARREST WARRANT

2015A1010202198

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

THE STATE against

Dederick Tarmanye Bright

Address: Deerwood Dr. Lot 5

North Charleston, SC 29406-

Phone: SSN:

Sex: M Race: B Height: 5 11 Weight: 145

DL State: SC DLR:

DOB: Agency ORI #: SC0100800

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: Angela Elmer - 0986

Offense: Sex / Criminal sexual conduct with minor - victim under 16 years of age and offender w/previous

Offense Code: 3022

Code/Ordinance Sec: 16-03-0655 (A) (2)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Court/Clerk/Enforcement Officer

RETURN WARRANT TO:

General Sessions Charleston County Judicial Center 100 Broad Street, Suite 106 Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Affiant: Angela Elmer being duly sworn deposes and says that defendant Dederick Tarmanye Bright did within this county and state on or about 5/13/2015 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Charleston) in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 years of age and offender w/previous record under 23-03-0430(c) or (d), sex offender registry

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Affiant's Address: 2500 City Hall Lane North Charleston, SC 29406

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 5/13/2015 defendant Dederick Tarmanye Bright did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 years of age and offender w/previous record under 23-03-0430(c) or (d), sex offender registry

Having found probable cause and the above officers having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Sworn to and subscribed before me on 5/20/2015

Signature of Issuing Judge Linda Schwartz Lombard Judge Code: 7004

Judge's Address: 3831 Leeds Avenue, Ste 200 North Charleston, SC 29405-

Judge's Telephone: (843)746-9822

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by U.S. Attorney General April 29, 2003 SCOA 918

118

BAIL set by

WITNESSES

Judge Lombard
on 5/20/15
Type and Amount: NO BOND
Name of Surety: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____
on _____
by _____
(Indicate jury trial, bench trial, plea, not pros., etc.)
Disposition: _____
Sentence: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



2015 JUN -1 PM 2:02
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

Inv. Det. A. Elmer

OCA# 2015015197

Personally appeared before me, a magistrate of this County, one R. Sharpe
who, first being duly sworn, deposes and says that

Dederick Tarmanye Bright

did within this County and State between the dates of May 13, 2015
violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
CRIMINAL SEXUAL CONDUCT WITH A MINOR 1st DEGREE
VIOLATION OF SECTION 16-3-655 (A) (2)

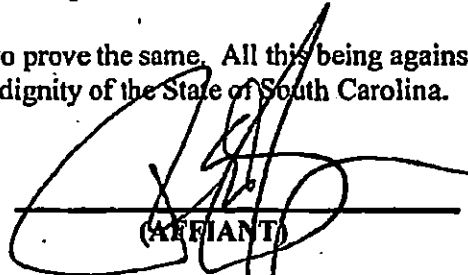
The affiant states there is probable cause to believe that the defendant named above did commit the
crime(s) set forth, and that such probable cause is based on the following facts:

That on May 13, 2015 while at [redacted] Rolling Fork Road, located in the City of North
Charleston, County of Charleston, State of South Carolina, the aforesaid, one, **Dederick
Tarmanye Bright**, did commit the offense of **CRIMINAL SEXUAL CONDUCT WITH A
MINOR 1st DEGREE**, in violation of section 16-3-655 of the South Carolina Code of Laws of
1976, as amended. In that the defendant did willfully, unlawfully and feloniously engage in
sexual battery with the victim, a fifteen year old male. The defendant is a register sex offender in
the state of South Carolina for similar offense.

Facts to establish the aforesaid are that on May 13, 2015 the defendant did approach the victim
from his vehicle as the victim was walking down the road. The victim got into the defendant's
burgundy in color Chevy Malibu. The defendant went into a corner store and bought alcohol. The
victim started drinking a fruity drink. The victim left his drink in the car when he entered into a
restaurant leaving the defendant alone with his drink. The victim stated that he came back into
the car and they parked outside of the incident location. The victim disclosed that he was feeling
funny and in a daze. The victim became very sleepy and dozed off in the front passenger seat of
the car. The victim remembered the defendant sucking on his penis with his mouth. The
defendant then exited the vehicle and entered inot the passenger side and mounted the victim.
The defendant then penetrated the victim's anus with his penis. The victim identified the
defendant in a photographic lineup.

Det. A. Elmer and the defendant are witnesses to prove the same. All this being against the
form of the State Statute and against the peace and dignity of the State of South Carolina.


Sworn to and Subscribed before me
this _____ day of _____ 2015.



(AFFIANT)

Address: 2500 City Hall Lane
N. Charleston, SC 29412

Phone: 843-554-5700



Signature of Judge

MAY 20 2015

General Sessions

CASE HISTORY FOR CASE 2015A1010202198

The State of South Carolina VS Dederick Tarmanye Bright

FILED DATE: 5/20/2015

CASE TYPE: GS

STATUS: Disposed

JUDGE: Clerk Of Court C P, G S, And Family Court
ARRESTING AGENCY: North Charleston Police Department

CASE PARTIES:

Defendant Bright, Dederick Tarmanye
[REDACTED] Deerwood Dr. Lot 5, North Charleston, SC 29406

Officer Elmer, Angela
2500 City Hall Lane, Post Office Box 190016, North Charleston, SC 29406-

Victim [REDACTED]
Minor, ,

Victim [REDACTED] [REDACTED]
[REDACTED] Charleston, SC 29403

Defendant Attorney Cochran, Charles William
101 Meeting Street, Charleston, SC 294012214

Solicitor Lash, Deborah Herring
101 Meeting St., 4Th Floor, Charleston, SC 29401

Court Reporter Rueger, Joyce C.

CASE HISTORY FOR CASE 2015A1010202198

Bright, Dederick Tarmanye Age: 36 DOB: [REDACTED]
[REDACTED] Deerwood Dr. Lot 5 DL#: [REDACTED] SSN: [REDACTED]
North Charleston, SC 29406

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0397 Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree SENTENCING Sentenced - 12Y	5/13/2015	Pled Guilty	8/8/2016

POST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: Sex / Criminal sexual conduct with minor, or Attempt - victim under 16				
Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.78%	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	100.00	100.00	0.00	999

Int Date: 08/31/2017
Int Time: 4:17:00PM
Requested By: COCBLC

Law Enforcement Funding Surcharge \$	\$25.00	\$25.00	\$0.00	999
State Assessment	0.00	0.00	0.00	999
Collection Fee 3%	3.75	3.75	0.00	3
Total:	\$128.75	\$128.75	\$0.00	

DATE	TIME	EVENT DESCRIPTION
1/20/2015	10:00 AM	Court event: Bond Hearing
1/25/2015	2:00 PM	Court event: First Appearance Date
1/8/2016	9:00 AM	Court event: Second Appearance Date
1/28/2015	8:54 AM	Motion/Brady Motion/Edwards Notice
1/1/2015	2:31 PM	Filing recorded: Warrant and Affidavit
1/2015	2:31 PM	Order/Original Bond Order
1/1/2015	2:32 PM	Filing recorded: Miscellaneous
1/24/2015	3:00 PM	Filing recorded: Preliminary Hearing Continued
1/27/2015	12:00 PM	Court event: Preliminary Hearing Scheduled w/o Notices
1/27/2015	1:09 PM	Filing recorded: Preliminary Hearing / Bound Over
1/30/2015	12:11 PM	Motion/Motion to reduce bond
1/16/2015	1:08 PM	Filing recorded: Order/Bond Modification/Motion Denied
1/20/2015	9:20 AM	Filing recorded: Indictment/Indictment
1/28/2015	11:33 AM	Filing recorded: Notice/Motion for court order/Collection suspect standards
1/6/2015	1:43 PM	Order/Court Order for Collection of Suspect Standards
1/9/2016	9:04 AM	Filing recorded: Active - Non Probation
1/8/2016	9:06 AM	Filing recorded: Sentence/PG
1/14/2016	4:20 PM	Filing recorded: Miscellaneous/Request for discovery and plea
1/20/2015	12:00 AM	Bond 2 was set in the amount of 0 by Lombard, Linda Schwartz