

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Nov 16 2020
SC Court of Appeals

Appeal from Greenville County

Honorable R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL G. STROTHER,

APPELLANT

APPELLATE CASE NO 2019-001328

SUPPLEMENTAL RECORD ON APPEAL

TAYLOR D. GILLIAM
Appellate Defender

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ATTORNEYS FOR RESPONDENT

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ALAN WILSON
ATTORNEY GENERAL

October 9, 2018

10/18/18
— Kent over offer —
— Gene D. 9/18/18
offer

Teal Johnson
Assistant Public Defender
Thirteenth Judicial Circuit
Public Defender Office
305 E. North Street, Suite 123
Greenville, SC 29601

Re: State v. Michael G. Strother
Warrant No(s): 2017A2330205157, -59 thru -62, -64, -65

Dear Ms. Johnson:

Your client has been charged with one count of Sexual Exploitation of a Minor, 1st Degree, five counts of Sexual Exploitation of a Minor, 3rd Degree and one count of Voyeurism.

A forensic examination of the SanDisk Ultra 128 GB USB contained the FreeNet software along with a Tor Browser. In the FreeNet folder a download folder contained 343 deleted files of potential unlawful contraband. In the encrypted container, a total of **14,162** photos of interest and **160** videos of interest were located. From these items, files included produced pictures and videos of the step granddaughter and stepdaughter. A total of **1,598** photos and **6** videos were located of the step-granddaughter, and a total of **9,852** photos and **2** videos were located of the step-daughter. The other approximate **3000** pictures and videos found are child pornography of various other people not related to the suspect.

A forensic examination of a Digital Recorder with a SanDisk Ultra 32 GB micro memory card was determined to be the device used for recording the step-daughter and step-granddaughter while changing in their rooms and bathroom. Three videos of the step daughter were still saved while several carved videos that had been deleted were recovered of the step granddaughter. It appears that the SanDisk Ultra 128 GB USB and the Digital Recorder with a SanDisk Ultra 32 GB micro memory card were both connected to the Dell laptop computer, as thumbnails of contraband and of the step-granddaughter and step-daughter were present on this device.

Exhibit A

Teal Johnston, Esquire
October 9, 2018
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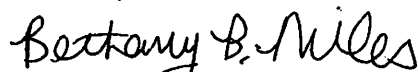
A forensic examination of the Kingston DataTraveler 8 GB USB flash drive contained deleted files of the step-granddaughter changing and the Lexar Jump Drive Silver & Black 520 MB USB flash drive contained deleted files of child pornography.

In total, **14,322** files of interest were found in this case to include **1,604** files of the step-granddaughter and **9,857** files of the step daughter. The other approximate **3,000** files were files of child pornography. Each of the files recorded of the step-daughter could constitute a separate count of Voyeurism. Each of the files recorded of the step-granddaughter where the minor appears in a state of nudity could constitute a separate additional count of Sexual Exploitation of a Minor, 1st degree. Each file of the step-granddaughter, as well as the other files of child pornography that your client possessed, could constitute a separate additional count of Sexual Exploitation of a Minor, 3rd degree.

The State is willing to allow Mr. Strother to plead guilty to one count of Sexual Exploitation of a Minor, 1st degree. In consideration of this plea, the State will drop the remaining charges of Sexual Exploitation of a Minor, 3rd degree and Voyeurism and agree to not pursue any additional charges for Sexual Exploitation of a Minor, 1st degree, Sexual Exploitation of a Minor, 3rd degree or Voyeurism. The State will not make a formal recommendation, but will state to the Court that we believe a substantial active sentence would be appropriate.

If your client wishes to accept this plea, he will need to enter his guilty plea by **Friday, November 9, 2018**. Should you have any questions or concerns, please feel free to contact me at (803) 734-4159 or by e-mail at bmiles@scag.gov. Thank you and I look forward to resolving this case with you.

Sincerely,



Bethany B. Miles
Assistant Attorney General

Karl R. Bodtorf, Psy.D.

302 West Main Street • Taylors, SC 29687 • Tel (864) 244-1007

10/05/17

13th Circuit Public Defender's Office
Attn: Teal Johnson, Assistant Public Defender
305 E. North Street Suite 123
Greenville, SC 29601

Re: Michael G. Strother DOB: 02/10/53 DOE: 09/26/17

Dear Ms. Johnson:

I am writing with respect to the above referenced individual who was referred to this office for psychological evaluation. As you are aware, I provide sexual offender specific assessments and outpatient treatment to this particular population, serving both South Carolina Probation and Parole, Federal Probation and Parole, as well as clients referred through the criminal justice system or legal counsel. I have been involved with providing such services since the very early 1990s. A copy of my resume documenting my training and experience as a clinical psychologist is available upon request.

I have had the occasion to meet with your client, Michael G. Strother at the Greenville County Detention Center at the end of last month. Sexual offender specific type evaluations typically take approximately four hours to complete and in addition to a clinical interview and mental status examination utilize the following procedures: Sexual Adjustment Inventory, Sexual History Questionnaire, Sexual Violence Risk-20, Personality Assessment Inventory, Psychopathic Personality Inventory-Revised, and the Shipley-2 (a test of intelligence). I also had the opportunity to review some twenty-five pages of various collateral documents (e.g. court records as well as the investigative report).

During the interview Michael informed me that he was arrested and charged with five counts of Sexual Exploitation of a Minor (3rd degree), one count of Sexual Exploitation of a Minor (1st degree), as well as voyeurism. According to his report he has been incarcerated in the detention center since May 2017. Mr. Strother was somewhat reserved early on in the interview though as time passed he became more interactive and spontaneous. Generally speaking he was able to present his circumstances in a clear and understandable manner.

At this particular juncture I have had the opportunity to score and interpret the various test instruments that were employed in Mr. Strother's assessment. From an intellectual standpoint Michael's intellectual abilities were found to span the average to above average range with an IQ estimated to fall between 100-118. The available evidence suggests that Mr. Strother possesses more than sufficient cognitive resources to benefit from any treatment interventions that might be proffered.

krbpsyd@aol.com

Exh. B + B

Michael did not present with any psychotic symptomatology such as bizarre ideations, delusions, or hallucinations. A review of background information would suggest that he has never experienced any childhood traumas and/or significant psychological problems in his past. For example he has never been involved with any mental health treatment (outpatient or inpatient), though his family doctor did prescribe an antidepressant a few years back, which he continues to take to this date. According to his report he never recognized the presence of depression until it was pointed out by a nurse practitioner. His psychosexual development (i.e. his interest in sexual matters and sexual experiences) would appear to be within the normal range. Michael does acknowledge having accessed pornography off and on through the years, beginning in late adolescence (while serving in the Navy). He readily admits to seeking out child pornography but maintains that it was often more about the "hunt" (searching for such material) as opposed to having a strong interest in child pornography. There does appear to be an addictive quality to his involvement with pornography.

The results from the Personality Assessment Inventory would suggest that Mr. Strother was experiencing much in the way of psychological distress at the time of this assessment. He reports elevated levels of dissatisfaction with his life and is quite pessimistic about his future. His difficulties with depression, as noted above, would appear to have been exacerbated by the circumstances in which he finds himself at the present time. Test findings reflect considerable social withdrawal/isolation. Michael's results on the Psychopathic Personality Inventory would suggest that he has little in common with those individuals who would be labeled as psychopathic. He was open/transparent when taking the Sexual Adjustment Inventory, a fact that cannot be said of many people referred under similar circumstances. A large percentage of individuals charged with sexual offenses are quite defensive. There was an elevation on only one of the sex related scales (Sexual Adjustment), suggesting a variety of sexual adjustment concerns. Two of the non-sexual scales (Antisocial & Distress) were elevated, reflecting the stress experienced by him in connection with his current circumstances as well as some antisocial attitudes (as it relates to social isolation/withdrawal and disagreement with certain governmental policies and regulations). An assessment tool (Sexual Violence Risk-20) reveals that his risk for future sexual aggression is in the low risk range.

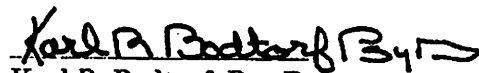
As noted above, Mr. Strother acknowledges having had in his possession various child pornography. While it is true that his possession of child pornography images would reflect at least some pedophile type interests, I am not convinced that Michael is a classic pedophile or predator. There is no evidence to suggest a preferential and/or fixed interest in minors/children; nor would there appear to be a life-long pattern of pedophilia type interests. To my knowledge there have been no allegations or incidents of where this client has attempted to interact and/or have contact electronically or otherwise with minors.

Psychosocial stressors neither excuse nor fully account for sexual aberrant behavior, though such factors can be important in understanding an individual's offense. The use of pornography can be viewed as a maladaptive attempt to manage the stress in one's life. The following stressors would appear to have been precursors to his offense: wife's chronic illness (advanced stage Parkinson), wife's grown daughter's relationship/financial instability combined with substance use (allegedly two DUI's) that led her to moving in with the Strothers, and eventually requiring Mr. Strother to assume legal custody for a time of her three children (as DSS had intervened).

Mr. Strother's circumstances are very similar to individuals participating in specialized sexual offender type counseling. Michael is an appropriate candidate for involvement in sexual offender specific treatment (i.e. an outpatient counseling program designed for individuals who have come to the attention of the authorities for computer related crimes (e.g. possession of child pornography, criminal solicitation of a minor, and sexting). The focus of this program is aimed at providing a facilitative environment for the exploration of one's thoughts, feelings and behaviors as it relates to matters of sexuality, and especially as it relates to those behaviors that may involve compulsions, addictions and/or deviance. With respect to recidivism (i.e. possession of child pornography), a recent study conducted by the federal government found that the "sexual recidivism rates" for non-production offenders fell at 7.4%. Of those offenders, 3.6% were arrested for or convicted of a sexual contact offense and 2.3% were arrested for or convicted of a subsequent child pornography offense. The remaining offenders, 1.5%, were arrested for or convicted of a non-contact offense (e.g. obscenity). Given the low rates of recidivism and assuming successful completion of sexual offender specific counseling and probation requirements (sexual offender guidelines), Mr. Strother's risk to the community would be expected to be in the low risk range.

I trust this information will be of value to you in your work with this client.

Respectfully,


Karl R. Bodtorf, Psy.D.

Johnson, Teal

From: Johnson, Teal
Sent: Tuesday, October 31, 2017 5:52 PM
To: 'Bethany Miles'
Subject: Michael Strother
Attachments: SKM_22717103117520.pdf

Bethany,

Please find attached to this email a report (3 pages) from Dr. Karl Bodtorf regarding Mr. Strother.

Thanks,

Teal Johnson

From: donotreply@greenvillecounty.org [mailto:donotreply@greenvillecounty.org]
Sent: Tuesday, October 31, 2017 5:53 PM
To: Johnson, Teal
Subject: Message from KM_227

Exhibit C

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

RECEIVED

Nov 16 2020

SC Court of Appeals

s/Taylor D. Gilliam
Taylor D Gilliam
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 16th day of November, 2020.