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**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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CERTIORARI TO LEXINGTON COUNTY  
The Honorable J. Derham Cole, PCR Judge

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Appellate Case No: 2018-001854

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ROBERT A. BAKER,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

---

SUPPLEMENTAL APPENDIX

---

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ATTORNEYS FOR RESPONDENT

INDEX

RECORD ON APPEAL .....1

FINAL ANDERS BRIEF OF APPELLANT .....44

COURT OF APPEALS OPINION .....55

PETITIONER’S FIRST AMENDED PCR APPLICATION.....56

MAY 2015 FORM 4 APPOINTING COUNSEL.....63

JUNE 2016 2016 FORM 4 SETTING A HEARING ON RESPONDENT’S MOTION TO DISMISS.....65

PETITIONER’S JULY 2016 MOTION TO RELIEVE COUNSEL .....67

AUGUST 2016 FORM 4 DENYING PETITIONER’S MOTION TO RELIEVE COUNSEL AND DENYING THE STATE’S MOTION TO DISMISS .....69

PETITIONER’S OCTOBER 2016 MOTION TO RELIEVE COUNSEL .....71

NOVEMBER 2016 ORDER RELIVING COUNSEL.....75

PETITIONER’S THIRD AMENDED PCR APPLICATION .....78

PETITIONER’S FOURTH AMENDED PCR APPLICATION.....86

PETITIONER’S NOVEMBER 2017 MOTION FOR A CONTINUANCE .....89

FORM FROM THE CLERK OF COURT APPOINTING ARTHUR AIKEN TO REPRESENT PETITIONER.....92

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM LEXINGTON COUNTY

R. Knox McMahon, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

ROBERT ALLEN BAKER,

APPELLANT

---

RECORD ON APPEAL

---

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INDEX

INDEX .....i

PROBATION REVOCATION HEARING TRANSCRIPT DATED JULY 15, 2010 .....1

INDICTMENT .....34

SENTENCING SHEET .....36

ORDER REVOKING PROBATION (JULY 15, 2010) .....37

RULE 203(B) EXPLANATION .....38

NOTICE OF APPEAL .....39

CERTIFICATE OF COUNSEL .....41

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
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22  
23  
24  
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STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA  
-vs-  
ROBERT ALLEN BAKER,  
  
Defendant.

)  
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TRANSCRIPT OF RECORD  
09-GS-32-1600, et al

July 15, 2010  
Lexington, South Carolina

B E F O R E:

HONORABLE R. KNOX MCMAHON, Judge.

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

DEBRA B. MOORE, Asst. Solicitor  
Attorney for the State

DAVID M. MAULDIN, Asst. Public Defender  
Attorney for the Defendant

L. COCONUT PANTSARI, R.P.R.  
Circuit Court Reporter

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18  
19  
20  
21  
22  
23  
24  
25

**INDEX**

Guilty Plea 07/15/10 . . . . . 3  
Statement of Facts . . . . . 18  
Sentence of the Court . . . . . 31  
Certificate . . . . . 33

**INDEX OF WITNESSES**

(Court Reporter's Note: There was no direct or cross examination of any witnesses).

**INDEX OF EXHIBITS**

(Court Reporter's Note: No exhibits were marked or received into evidence).

1 (The following proceedings are reported on  
2 July 15, 2010).

3 CLERK: Indictment 2010-GS-32-2103, the State  
4 versus Robert Allen Baker, indicted for criminal sexual  
5 conduct with a minor second degree, he is pleading as  
6 charged.

7 Indictment 2010-GS-32-2101, the State versus  
8 Robert Allen Baker, indicted for criminal sexual conduct  
9 with a minor second degree, he is pleading as charged.

10 Indictment 2010-GS-32-2105, the State versus  
11 Robert Allen Baker, indicted for lewd act upon a child,  
12 he is pleading as charged.

13 Indictment 2010-GS-32-2108, the State versus  
14 Robert Allen Baker, indicted for lewd act upon a child,  
15 he is pleading as charged.

16 Indictment 2009-GS-32-1600, the State versus  
17 Robert Allen Baker, indicted for criminal sexual conduct  
18 with a minor second degree, he is pleading as charged.

19 Indictment 2009-GS-32-1597, the State versus  
20 Robert Allen Baker, indicted for criminal sexual conduct  
21 with a minor second degree, he is pleading as charged.

22 All indictments are true billed, and he is  
23 represented by Mr. Mauldin.

24 Raise your right hand, please.

25 ROBERT ALLEN BAKER is

1 first duly sworn.

2 PROBATION OFFICER: Your Honor?

3 THE COURT: Yes, sir.

4 PROBATION OFFICER: Mr. Baker is on probation.  
5 The plea today will violate his probation. We are  
6 serving the citation at this time, and the victim's  
7 mother on the probation case is present and would like  
8 to address the Court at the appropriate time if you  
9 would so allow.

10 THE COURT: All right. Thank you. Thank you  
11 very much, Mr. Rentz.

12 Mr. Mauldin, you represent Robert Allen Baker?

13 MR. MAULDIN: Yes, Your Honor.

14 THE COURT: Have you explained to him the  
15 charges in the indictments, the various punishments, his  
16 constitutional rights, including his right to a jury  
17 trial on each of these charges?

18 MR. MAULDIN: Yes, sir.

19 THE COURT: In your opinion does the Defendant  
20 understand each of the charges, the potential  
21 punishment, and his constitutional rights?

22 MR. MAULDIN: Yes, sir.

23 THE COURT: How does the Defendant indicate to  
24 you that he wishes to plead or intends to plead, guilty  
25 or not guilty?

1 MR. MAULDIN: Guilty, Your Honor.

2 THE COURT: Are you Robert Allen Baker?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Baker, before I can accept a  
5 plea of guilty, it's necessary for me to determine that  
6 your pleas of guilty are made freely and voluntarily.  
7 Therefore, I need to ask you some questions. If you do  
8 not understand my questions or the words that I use,  
9 please let me know, and I will explain them to you.

10 If at any time you wish to talk with your  
11 lawyer about any matter during my questioning or you  
12 feel that it's necessary to do so, please ask me and I  
13 will allow you to do so. Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: How old are you, sir?

16 THE DEFENDANT: Twenty-nine, sir.

17 THE COURT: How much education do you have?

18 THE DEFENDANT: Graduated.

19 THE COURT: Graduated high school?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: What type of work do you do?

22 THE DEFENDANT: Paint and body work.

23 THE COURT: Today are you under the influence  
24 of any medication, drug or alcohol?

25 THE DEFENDANT: No, sir.

1 THE COURT: Are you aware of any physical,  
2 emotional or nervous problem that might keep you from  
3 understanding what you are doing today?

4 THE DEFENDANT: No, sir.

5 THE COURT: Tell me what you are doing here  
6 today.

7 THE DEFENDANT: I'm pleading, sir.

8 THE COURT: Pleading guilty?

9 THE DEFENDANT: Yes, sir, pleading guilty.

10 THE COURT: You have heard your attorney,  
11 Mr. Mauldin, tell me that he has explained the various  
12 charges to you, he has explained your constitutional  
13 rights to you, he explained the potential punishments to  
14 you and that you understand all these things; is that  
15 correct?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I have been handed up six  
18 indictments. I will go over each one of them  
19 individually. It appears to be four indictments for  
20 criminal sexual conduct with a minor in the second  
21 degree and two indictments for committing or attempting  
22 a lewd act upon a child.

23 The first indictment numerically is  
24 09-GS-32-1597. It reads that Robert Allen Baker did in  
25 Lexington County, South Carolina, between December 1 and

1 December 31 of '08, commit a sexual battery upon a minor  
2 who was 14 years of age or less, but who was at least 11  
3 years ago of age, to wit, sexual intercourse upon  
4 <sup>Minor #1</sup> date of birth, , in violation of  
5 16-3-655(b)(1). For that charge you can receive a  
6 sentence up to 20 years. Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: The next indictment,  
9 09-GS-32-01600 reads that Robert Allen Baker did in  
10 Lexington County, on or about January 12 of '09, commit  
11 a sexual battery upon a minor who was 14 years of age or  
12 less but who was at least 11 of years of age, to wit,  
13 sexual intercourse upon that same named victim in  
14 indictment 1597 in violation of Section 16-3-655(b)(1).  
15 That is an indictment for criminal sexual conduct with a  
16 minor in the second degree, for which you can receive a  
17 sentence of up to 20 years. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: The next indictment is  
20 2010-GS-32-02101. It reads that Robert Allen Baker did  
21 in Lexington County, South Carolina, between January 1  
22 of '09 and January 13 of '09, commit a sexual battery,  
23 to wit, the Defendant forced the victim to perform oral  
24 sex upon a minor who was 14 years of age or less but who  
25 was at least 11 years of age, to wit, <sup>Minor #2</sup> date of

1 birth, in violation of 16-3-655(b)(1). That's  
2 an indictment for criminal sexual conduct with a minor  
3 in the second degree, for which you can receive a  
4 sentence of up to 20 years. Do you understand?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: The next indictment,  
7 2010-GS-32-02103, reads that Robert Allen Baker did on  
8 January 13, '09, in Lexington County, South Carolina,  
9 commit a sexual battery, to wit, sexual intercourse upon  
10 a minor who was 14 years of age or less but who was at  
11 least 11 years ago of age, to wit, Minor #2 date of  
12 birth, same date as stated before, in violation  
13 of 16-3-655(b). It's an indictment for criminal sexual  
14 conduct with a minor in the second degree, for which you  
15 can receive a sentence of up to 20 years. Do you  
16 understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: The next indictment,  
19 2010-GS-32-02105, reads that Robert Allen Baker did in  
20 Lexington County between December 1 and December 31 of  
21 '08, being a person over the age of 14, willfully and  
22 lewdly commit or attempt a lewd or lascivious act upon  
23 or with the body or its parts of a child under the age  
24 of 16, to wit, Minor #2 date of birth, with  
25 the intent of arousing, appealing to or gratifying the

1 lust or passions or sexual desires of the person or of  
2 the child, to wit, the Defendant fondled and licked her  
3 breasts in violation of 16-15-140 of the Code of Laws of  
4 South Carolina. That's an indictment for committing or  
5 attempting to commit a lewd act upon a minor, for which  
6 you can receive a sentence of up to 15 years. Do you  
7 understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: The next indictment,  
10 2010-GS-32-02108, reads that Robert Allen Baker did in  
11 Lexington County, between 1 January 09 and January 13,  
12 '09, being a person over the age of 14, willfully and  
13 lewdly commit or attempt a lewd or lascivious act upon  
14 or with the body or its parts of a child under the age  
15 of 16, to wit, Minor#2 same date of birth as the  
16 previous indictment, with the intent of arousing,  
17 appealing to or gratifying the lusts or passions or  
18 sexual desires of the person or of the child, to wit,  
19 the Defendant fondled and licked her breasts in  
20 violation of 16-15-140. It's a charge of committing or  
21 attempting a lewd act on a child, for which you can  
22 receive 15 years. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand all those  
25 charges and all those potential punishments, Mr. Baker?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: To recap, you have four counts of  
3 criminal sexual conduct with a minor in the second  
4 degree, two counts of lewd act on a minor, for which the  
5 maximum potential sentence is 110 years. Do you  
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: When you plead guilty, you give up  
9 certain important constitutional rights. First, you  
10 give up your right to remain silent. That is your right  
11 against self incrimination, your right to say nothing at  
12 all. You cannot be compelled to testify or to provide  
13 evidence against yourself.

14 Second, you give up your right to have a jury  
15 trial. That is your right to have a jury decide whether  
16 or not you are guilty beyond a reasonable doubt. They  
17 would base their decision upon evidence which the State  
18 presents and on any evidence you might wish to  
19 introduce.

20 In a trial, Mr. Baker, you would be presumed  
21 to be innocent, and the State would have to produce  
22 evidence that would convince all 12 members of the jury  
23 that you were guilty beyond a reasonable doubt.

24 Third, you give up your right to confront and  
25 be confronted by the witnesses against you. That is the

1 right to see, hear, and cross examine any witnesses that  
2 may be called against you during the trial and the right  
3 to subpoena and call witnesses on your own behalf. Do  
4 you understand these rights?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that when you  
7 plead guilty, you give up these constitutional rights?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Is that what you want to do?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that you won't  
12 get a jury trial if you plead guilty?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All of these cases have been true  
15 bill indicted by the grand jury. So my next question  
16 then is understanding the nature of the charges against  
17 you -- again, four counts of criminal sexual conduct  
18 with a minor in the second degree and two counts of  
19 committing or attempting to commit a lewd act on a  
20 minor, and the consequences of these guilty pleas, that  
21 the potential maximum punishment on each count of  
22 criminal sexual conduct with a minor in the second  
23 degree is 20 years, a total of 80, and on the lewd act,  
24 15 years each, for a total of 30, for a maximum of 110  
25 years -- how do you, plead guilty or not guilty?

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THE DEFENDANT: Guilty.

THE COURT: As to each and every charge?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that when you plead guilty, you admit the truth of the charges that have been made against you?

THE DEFENDANT: Yes, sir.

THE COURT: You may have defenses to these charges against you, Mr. Baker. I don't know whether you do or not. Do you understand that if you plead guilty, you will waive or give up any defenses to these charges?

THE DEFENDANT: Yes, sir.

THE COURT: You may have given an incriminating statement in these cases. I don't know whether you did or not. If you plead guilty, do you understand that you waive or give up the right to contest or challenge whether or not such a statement was freely and voluntarily given in accordance with your constitutional rights?

THE DEFENDANT: Yes, sir.

THE COURT: Did you commit the offense of criminal sexual conduct with a minor in the second degree between December 1 of '08 and December 31, '08, by committing sexual intercourse on Minor #1 in

1 Lexington County?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Did you commit the offense of  
4 criminal sexual conduct with a minor in the second  
5 degree on January 12, '09, in Lexington County, by  
6 committing sexual intercourse upon the body of Minor #1

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Did you commit the offense of  
10 criminal sexual conduct with a minor in the second  
11 degree between January 1 of '09 and January 13 of '09,  
12 by causing the victim, Minor #2 to perform oral  
13 sex on you in Lexington County?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did you commit the offense of  
16 criminal sexual conduct with a minor in the second  
17 degree, on or about January 13, '09, in Lexington  
18 County, by committing sexual intercourse upon the body  
19 of Minor #2

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did you commit a lewd act upon a  
22 minor between December 1 of '08 and December 31 of '08,  
23 with and upon the body of Minor #2 by fondling or  
24 licking her breasts in Lexington County?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Did you commit the offense of lewd  
2 act upon a minor, on or about January 1 of '09 --  
3 between January 1 of '09 and January 13 of '09, by  
4 fondling and licking the breasts of Minor #2 in  
5 Lexington County?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Solicitor, have there been any  
8 plea negotiations in these cases?

9 MS. MOORE: Yes, sir, Your Honor, there have  
10 been. Multiple indictments are being nol-prossed in  
11 lieu of his plea today. He is pleading to six  
12 indictments. All other pending indictments in Lexington  
13 County are being nol-prossed as a result of this plea  
14 today.

15 We have also entered into a negotiated 30-year  
16 sentence that we would ask Your Honor to consider,  
17 2010-2103 (sic) as a 20-year sentence, to be run  
18 consecutive to 2009-1600 (sic), sentence him to 10 years  
19 consecutive. All other indictments to run concurrent  
20 with those two. Both of those indictments represent  
21 each of the victims.

22 THE COURT: All right. What indictments are  
23 you dismissing, Solicitor?

24 MS. MOORE: Your Honor, I don't have an  
25 enumerated list, but there is probably about ten.

1 MR. MAULDIN: There's 12.

2 MS. MOORE: Twelve.

3 THE COURT: Twelve indictments. All pending  
4 in Lexington County? All pending in Lexington County?

5 MS. MOORE: All other pending, other than  
6 these, are being dismissed, yes, sir.

7 THE COURT: Mr. Mauldin, has the solicitor  
8 correctly and completely stated the negotiations into  
9 the record?

10 MR. MAULDIN: That is correct, Your Honor. It  
11 is a negotiated sentence for 30 years. The 30 years is  
12 to be set at 85 percent. That's basically a flat  
13 30-year sentence, and the remaining charges against  
14 Mr. Baker are to be dismissed.

15 THE COURT: Mr. Baker, has the solicitor fully  
16 and completely stated what you understand the  
17 recommendation to be?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Is there anything more to it in  
20 your mind?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Do you still wish to enter pleas  
23 of guilty to all these charges?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Besides the plea negotiations that

1 you have heard stated into the record and that you have  
2 agreed with, has anyone promised you anything or held  
3 out any hope of reward to get you to plead guilty?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Has anyone threatened you or used  
6 force to get you to plead guilty?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Has anyone used any pressure or  
9 intimidation to cause you to plead guilty?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Have you had enough time to make  
12 up your mind as to whether or not you want to plead  
13 guilty?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Are you pleading guilty of your  
16 own free will and accord?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Are you satisfied with the manner  
19 in which your lawyer has advised you and represented  
20 you?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Have you talked with your lawyer  
23 as often and for as long as you feel necessary for him  
24 to properly represent you?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you need anymore time to talk  
2 with your lawyer?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: Have you understood your talks  
5 with your lawyer?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Has your lawyer done everything  
8 for you you feel like he could have done or should have  
9 done?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Has your lawyer done anything in  
12 this case that you feel like he should not have done?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Are you completely satisfied with  
15 your lawyer's services?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Have you understood my questions?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Mr. Baker, is there anything you  
20 would like to ask me about what we have just been over?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Do you understand that you have a  
23 right to appeal your guilty pleas and the sentence or  
24 sentences of the Court and that you or your lawyer must  
25 do this within ten days?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Solicitor.

3 MS. MOORE: Your Honor, may it please the  
4 Court. These offenses occurred or began when the  
5 Defendant began dating the victims' mother, April Hall.  
6 They met at a New Year's Eve party on New Year's Eve,  
7 2006, and began dating shortly thereafter.

8 Mr. Baker moved in with Ms. Hall and her three  
9 children. She has two daughters named in the  
10 indictments and a son who is younger. He moved in in  
11 April of 2007.

12 In the summer of 2007, the first assault on  
13 the oldest daughter, Minor #2 he threw her on the bed,  
14 tried to pull her panties down, tried to insert his  
15 penis into her vagina.

16 She fought him; ripped his necklace off, and  
17 that scared Mr. Baker off of her because he left her  
18 alone, Your Honor, until he asked -- he remained living  
19 in the home. She never reported to it her mother, but  
20 in December of 2008, he asked her mother to marry him.

21 The next day is when he began the lewd acts on  
22 Minor #2 He began fondling her breasts. It escalated  
23 into almost an everyday occurrence beginning in January.  
24 She knows this because she was on Christmas break.

25 In January, between January 1st and

1 January 13th, he forced her to perform oral sex on him.  
2 Minor #2 tells me that she never told her mother because  
3 her mother was so happy and she was engaged. She had  
4 already picked out her wedding dress, and she felt she  
5 didn't want to ruin her mother's happiness.

6 She began sleeping with her younger sister  
7 though to avoid any contact with Mr. Baker. Mr. Baker  
8 would come into her room in the early morning hours,  
9 lift her shirt up, and begin fondling her breasts.

10 Ultimately she finally disclosed on  
11 January 13th, 2009. On that date, Your Honor, Ms. Hall,  
12 the girls' mother, had to take a friend of hers, who is  
13 present in the courtroom today, as well as other family  
14 members and friends, she had to take her friend to  
15 Charleston for some medical work, and she had to leave  
16 the home at a very early hour.

17 Mr. Baker tried to wake her up. She knew what  
18 he was up to, refused to get out of bed, got up, got  
19 ready for school. It was always the practice that she  
20 would be dropped off at Pelion High School first and her  
21 two younger siblings would be dropped off at school  
22 after her.

23 He took the two younger siblings to school.  
24 After they got out of the car, she realized something  
25 was going on. He told her, You think you are slick,

1 don't you? Returned back to the home and forcibly raped  
2 her back in her mother's bedroom.

3 He forced her down on the bed, had vaginal  
4 intercourse with her. It was her first experience, her  
5 first sexual experience. He had trouble getting it in  
6 but reached under the mattress, had a bottle of K.Y.  
7 jelly that enabled him to perform the sexual  
8 intercourse.

9 That's important because she goes to school.  
10 He takes her to school, tells her not to tell anyone,  
11 but immediately upon arriving at Pelion High School, she  
12 goes straight into the front office and immediately  
13 tells the secretary at the front desk she had been  
14 raped.

15 She then goes to a guidance counselor who  
16 calls the school resource officer, Officer Moore, who is  
17 present in the courtroom. He calls E.M.S., realizes she  
18 has not taken a shower. They follow all the perfect --  
19 it was a text book case of what to do in a sexual  
20 assault kit, for a sexual assault kit to be performed  
21 correctly.

22 She is transported to Lexington Medical  
23 Center. A sexual assault nurse examiner just so  
24 happened to be on call and did the examination. They  
25 were able to get semen off of the victim.

1           In the meantime deputies are trying to get in  
2 touch with the mother who was in Charleston. The  
3 Defendant is calling her. She tells -- the mother tells  
4 the Defendant that something has happened to Minor #2.  
5 doesn't go into any details, but he leaves his job and  
6 rushes back home at 170 Glover Road in Pelion where all  
7 these assaults have occurred.

8           He is met there by Detective Ed Prestigiaco,mo,  
9 who is not present today, Your Honor, because he is on  
10 vacation. Officer Moore was there. Several other  
11 officers were waiting in the driveway, waiting on a  
12 search warrant to search the home.

13           They detained Mr. Baker. They take their  
14 lawful search warrant, go into the home. They find the  
15 K.Y. jelly. They find the towel that she described that  
16 he made her wipe down with. They took the sheets off  
17 the bed, took all of this into evidence, Your Honor, and  
18 charged him with criminal sexual conduct with a minor  
19 second.

20           At the hospital Detective Nancy Vargas, who is  
21 the victim advocate of the Sheriff's Department, who is  
22 also present in the courtroom, interviews the victim and  
23 gets more details as to the past assaults that led up to  
24 this particular day.

25           Later that day the younger sister, Minor #1

1 reveals that she, too, had been sexually assaulted by  
2 him. She reveals that, I believe after Detective  
3 Prestigiaco and Sergeant Roy Mefford interviewed  
4 Mr. Baker.

5 Sergeant Mefford went to serve the warrants on  
6 him in the jail. He stated he wanted to talk to  
7 Sergeant Mefford to tell him his side of the story.  
8 They Mirandized him, sat him down, and got a written  
9 statement, as well as an oral statement.

10 I have that statement if Your Honor would like  
11 to read it. He does admit that he has had sexual  
12 intercourse with the younger child, Minor #1 about five  
13 times and oral sex with her -- she was 13 at the time,  
14 Your Honor -- five to ten times.

15 He admits as well having a sexual intercourse  
16 with Minor #2 once and oral sex two to three times. Your  
17 Honor, he is charged with all these indictments on both  
18 girls.

19 The evidence is taken to S.L.E.D.; however,  
20 S.L.E.D. was not able to get a D.N.A. match on him.  
21 They tested every piece of evidence. There was semen  
22 indicated on everything, which baffled me a little bit.

23 But when I interviewed the mother of the  
24 victims, she said that when she began dating the  
25 Defendant, he told her that he did not want anymore

1 children. Therefore, he had had a vasectomy after the  
2 birth of his second child. Lieutenant Robin Taylor at  
3 S.L.E.D. tells me that once a man has had a vasectomy,  
4 no D.N.A. can be extracted from seminal fluid.

5 Your Honor, there are many family members, the  
6 victims. The victim's mother is present. They are very  
7 distraught, wish they had the courage to address, Your  
8 Honor, but I don't believe that they do.

9 They are in agreement with this plea, only to  
10 keep the girls from having to go through the trauma of a  
11 trial. They have been traumatized enough and believe  
12 that a 30-year sentence is justice in this case.

13 THE COURT: Solicitor, perhaps I missed it in  
14 my notes.

15 MS. MOORE: Yes, sir.

16 THE COURT: As far as the younger child,  
17 Minor #1

18 MS. MOORE: Yes, sir.

19 THE COURT: In the indictments alleging -- it  
20 looks like two indictments that refer to Minor #1 --  
21 covering dates December 1 of '08 and December 31, '08.

22 MS. MOORE: Yes, sir.

23 THE COURT: And January 12 of '09. How old  
24 would she have been at that time?

25 MS. MOORE: Thirteen years old both times,

1 Your Honor.

2 THE COURT: Thirteen years of age. Then four  
3 indictments reference Minor #2 January 1, '09 to 13 of  
4 '09; December 1, '08 to December 31, '08; January 13 of  
5 '09; January 1, '09, January 13, '09, alleging lewd acts  
6 and sexual intercourse, fellatio. What ages would she  
7 have been?

8 MS. MOORE: Fourteen.

9 THE COURT: Thank you. Prior record,  
10 Solicitor?

11 MS. MOORE: Yes, sir, Your Honor. He was  
12 convicted of assault of a high and aggravated nature in  
13 August of 2004. He also pled to an A.B.H.A.N.  
14 December 6, 2006.

15 That is the probation -- he is currently on  
16 probation. He got a ten-year sentence suspended to five  
17 years probation. These events occurred six, seven  
18 months -- the beginning of it -- six, seven months after  
19 he was put on probation.

20 THE COURT: Is there an 1106 on the probation,  
21 Mr. Rentz?

22 PROBATION OFFICER: No, sir.

23 THE COURT: Tell me -- Mr. Baker, let me ask  
24 you this. The Department of Probation, Parole, and  
25 Pardon Services alleges you have willfully and

1 intentionally violated the terms and conditions of your  
2 probation. How do you plead to that, guilty or not  
3 guilty?

4 THE DEFENDANT: Guilty.

5 THE COURT: Thank you. Tell me about his  
6 probation, Mr. Rentz.

7 PROBATION OFFICER: Yes, sir. As Ms. Moore  
8 stated, he pled December 7, 2006, to A.B.H.A.N. He had  
9 actually been charged with C.S.C. first and pled to  
10 A.B.H.A.N. He received a sentence of ten years with  
11 five years probation. Today's plea will violate that  
12 probation.

13 We attempted to contact the victim a couple of  
14 hours ago, and her cell phone was either off or full of  
15 messages. We saw in the file that her mother is  
16 Ms. Hinson, who works at the Sheriff's Department.  
17 Ms. Hinson is here and would like to address the Court  
18 at the appropriate time.

19 THE COURT: Do you have the sentencing sheet?

20 PROBATION OFFICER: I do.

21 THE COURT: May I see it?

22 (Hands to Court.)

23 (Pause.)

24 THE COURT: Anything further, Solicitor, from  
25 the State?

1 MS. MOORE: No, sir.

2 THE COURT: Now, Ms. Hinson is present?

3 PROBATION OFFICER: Yes, sir.

4 THE COURT: Ms. Hinson, you are the mother of  
5 the victim on the assault and battery of a high and  
6 aggravated nature where he pled in December of '06?

7 MS. HINSON: Yes, sir.

8 THE COURT: Give me just one movement. I find  
9 there is a substantial factual basis for these guilty  
10 pleas. The Defendant's decision to plead and enter  
11 these guilty pleas to these charges is freely,  
12 voluntarily, knowingly, and intelligently made. He has  
13 had the advice and counsel of a very competent attorney  
14 with whom he says he is well and totally satisfied. His  
15 pleas of guilty are therefore accepted.

16 I would be glad to hear from, Ms. Hinson.

17 MS. HINSON: I just wanted to say that my  
18 daughter and grandchildren were put through a lot of  
19 abuse by Mr. Baker. I am just asking that you run his  
20 ten-year suspended sentence consecutive so we can have  
21 some closure.

22 THE COURT: You heard Mr. Rentz said they  
23 attempted to contact your daughter and were not able to  
24 do so. Are you speaking on her behalf?

25 MS. HINSON: Yes, sir, I am.

1 THE COURT: And you have no objections with  
2 going forward with the probation violation matter today  
3 without your daughter being present?

4 MS. HINSON: Yes, sir.

5 THE COURT: Do you object to me hearing the  
6 probation violation today without your daughter being  
7 present?

8 MS. HINSON: Oh, no, sir.

9 THE COURT: Thank you. That was probably an  
10 unartful way that I asked that question. Thank you,  
11 Ms. Hinson. Mr. Mauldin.

12 MR. MAULDIN: Thank you, Your Honor.  
13 Mr. Baker is 29 years old. He's originally from Riley  
14 County, Kansas, and moved to South Carolina when he was  
15 two or three years old, lived in South Carolina for most  
16 of his life.

17 As he told you, he did graduate high school.  
18 That was from Swansea High School in 2000. He says he  
19 is doing paint and body work. He has mostly worked for  
20 a placed called Dick Smith Paint and Body, has been  
21 there off and on since 1997.

22 He says he was an apprentice there and did  
23 everything from fixing cars, paintings cars, washing  
24 cars, putting cars together, anything they wanted him to  
25 do. He is divorced, Your Honor, and does have two

1 children from that marriage, who are nine and seven.

2 THE COURT: And that's Ms. Hinson's  
3 grandchildren?

4 MR. MAULDIN: Yes. Standing here with him is  
5 Linda Zinc, his sister. Also in the courtroom is his  
6 father, Richard Baker, a niece, Ms. Wagner, and another  
7 sister, Janet Washington.

8 Mr. Baker basically confessed to this, Your  
9 Honor. He did admit to the police what he did. I have  
10 been doing this 11, 12 years now -- to some people  
11 that's a long time being a lawyer and to some people  
12 that's a short time being a lawyer. I guess it depends  
13 on where you are in the profession.

14 I have had a lot of these cases. It's very  
15 rare for me to have somebody that has actually confessed  
16 to doing it and admitted it to the police. I think that  
17 is important in Mr. Baker's circumstance, Your Honor, in  
18 that that admission and the fact that you admit you did  
19 it is a large step toward perhaps one day correcting the  
20 behavior that led to the offenses or the mental attitude  
21 that did so.

22 I know his family is definitely not proud of  
23 what he did. They think it's horrible and terrible that  
24 this happened, but they are proud that he did admit it.  
25 That's one of the main reasons they are standing by him

1 and still here today and willing to support him is  
2 because he did admit he did it. He did take  
3 responsibility and he has come to court and taken  
4 responsibility today, Your Honor.

5 I have explained to him all the potential  
6 ramifications, as far as sex offender registry regarding  
7 these charges, the electronic monitoring that he has to  
8 do, the community supervision after the service of his  
9 term in the Department of Corrections, and the potential  
10 for the Attorney General's Office to initiate sexually  
11 violent predator proceedings, if that should actually  
12 exist by the time Mr. Baker gets out.

13 He is stepping forward, Your Honor. He is  
14 taking responsibility. He is willing to serve an  
15 extremely long sentence that a lot of people would balk  
16 at doing. He understands that he needs to be punished  
17 for this.

18 We believe the 30-year sentence at 85 percent,  
19 to be followed by these other ramifications, is  
20 significant punishment, Your Honor. In that regard we  
21 would hope that you would run the probationary sentence  
22 concurrent because that is a long period of time for him  
23 to do.

24 He may still have to deal with the sexually  
25 violent predator issues once he may be released from the

1 Department of Corrections at the age of close to 55.  
2 That's about all I have to say, Your Honor. He has been  
3 in jail since January 13, '09, and hope Your Honor will  
4 give him credit towards his sentences since that date.

5 THE COURT: Thank you very much, Mr. Mauldin.  
6 Is there anything you would like to say, Mr. Baker?

7 THE DEFENDANT: I would like to say that I  
8 apologize to the family. I know what I did was wrong  
9 and I apologize.

10 MR. MAULDIN: Mr. Baker just wanted me to add  
11 that he didn't want the children to go through the trial  
12 as well.

13 THE COURT: I would be glad to hear whatever  
14 he has to say.

15 MR. MAULDIN: That was just something he  
16 wanted me to add.

17 THE COURT: Thank you. Thank you very much,  
18 Mr. Mauldin.

19 Let me make sure the attorneys and I  
20 understand the negotiated sentence. He would get 20  
21 years on 1600, 09-1600, and 10 years on 10-2103,  
22 consecutive?

23 MS. MOORE: Yes, sir.

24 THE COURT: All others would be concurrent  
25 sentences as far as his entering of his pleas today; is

1 that correct, Solicitor?

2 MS. MOORE: Yes, sir.

3 THE COURT: Is that correct, Mr. Mauldin?

4 MR. MAULDIN: Yes, sir the sentence to be  
5 fashioned as being 30 years.

6 THE COURT: I accept the negotiated sentence  
7 as to his current indictments he is entering pleas to.  
8 On 09-GS-32-1598, criminal sexual conduct with a minor  
9 in the second degree, the Defendant is committed to the  
10 State Department of Corrections for a determinate term  
11 of 20 years.

12 On 10-GS-32-2101, criminal sexual conduct with  
13 a minor in the second degree, the Defendant is committed  
14 to the State Department of Corrections for a determinate  
15 term of 20 years.

16 2010-GS-32-2105, lewd act on a minor, the  
17 Defendant is committed to the State Department of  
18 Corrections for a determinate term of 10 years.

19 2010-GS-32-2108, lewd act on a minor, the  
20 Defendant is committed to the State Department of  
21 Corrections for a determinate term of 10 years.

22 On 2010-GS-32-2103, the Defendant is committed  
23 to the State Department of Corrections for a determinate  
24 term of 10 years.

25 And 2009-GS-32-1600, criminal sexual conduct

1 with a minor in the second degree, the Defendant is  
2 committed to the State Department of Corrections for a  
3 determinate term of 20 years.

4       The 20-year sentence on 1600 and the 10-year  
5 sentence on 2103 are consecutive, one to the other, that  
6 is 20 and 10 consecutive. All other sentences imposed  
7 this date on the active indictments are 20 years, 20  
8 years, 10 years, and 10 years which are concurrent to  
9 the 20- and 10-year consecutive sentence.

10       I find that he has willfully and intentionally  
11 violated the terms and conditions of his probation. I  
12 am revoking in full, whatever maximum amount I can  
13 sentence him to, consecutive on that. He gets credit  
14 for all time served. He is placed on the sex offender  
15 registry. Thank you. Good luck to you, Mr. Baker.

16       \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*

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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal, in the Criminal Court for Lexington, South Carolina on the 15th day of July, 2010 .

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

October 14, 2010

L Coconut Pantsari

Court Reporter

DOCKET NO. 2006-GS-32-3893

The State of South Carolina  
County of Lexington

COURT OF GENERAL SESSIONS

DECEMBER TERM 2006

THE STATE  
vs.  
Robert Allen Baker

I DO HEREBY WAIVE MY RIGHT  
TO GRAND JURY PRESENTMENT  
*Robert Allen Baker*  
DEFENDANT  
12-7-06  
DATE  
*[Signature]*  
WITNESS

A-2005-32-03194 12/7/2006 9:08 AM

ARREST WARRANT NUMBER  
STRAIGHT INDICTMENT

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury Date:

CDR# 0013

Indictment for  
Assault and Battery of a High and  
Aggravated Nature

§Common Law

DONALD V. MYERS, SOLICITOR

36

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )

INDICTMENT FOR  
Assault and Battery of a High and Aggravated Nature

§Common Law

At a Court of General Sessions, convened on December, 2006, the Grand Jurors of Lexington County present upon their oath:

That Robert Allen Baker did in Lexington County on or about August 30, 2005, commit an unlawful act of violent injury to the person of ~~Robert Allen Baker~~ accompanied by the following circumstance(s) of aggravation: a difference in the sexes of the parties, to wit: defendant forced the victim to have vaginal intercourse with him and/or also the victim of a burglary and/or the victim of a forcible confinement, in violation of the Common Laws of the State of South Carolina.

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

Delma B. Moore  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington  
STATE Robert Baker  
AKA: \_\_\_\_\_  
Race: W Sex: M Age: 26  
DOE SS#: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
DL# \_\_\_\_\_ SID# SC01184757

INDICTMENT/CASE#: 2006-GS-32-3893  
AMW#: Straight indictment  
Date of Offense: 8/30/06  
S.C. Code §: Common Law  
CDR Code #: 0013

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: ASHAN  
In violation of Common Law of the S.C. Code of Laws, bearing CDR Code # 0013

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

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (Defendant Initial)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence;  Recommendation by the State. Probation

ATTEST: Edna B. Moore Solicitor Robert Allen Baker Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 18 months years or  under the Youthful Offender Act not to exceed 2 years and/or to pay a fine of \$ 125.00; provided that upon the service of 180 days/months/years and/or payment of \$ 125.00; plus costs and assessments as applicable; the balance is suspended with probation for 5 years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment

|  |                |
|--|----------------|
| 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 \$       |
| \$56-6-2995 (DUI Assessment)           | \$12 \$        |
| \$35.13 (Public Def/Prob)              | \$500 \$       |
| \$73.3, 1B TP (Law Enforce. Funding)   | \$25 \$25.00   |
| \$33.7, 1B TP (Drug Court Surcharge)   | \$100 \$       |
| \$50-21-114(BUI Breath Test Fee)       | \$50 \$        |
| \$56-6-2942(J) (Vehicle Assessment)    | \$40/ea \$     |
| 3% to County (if paid in installments) | \$             |
| TOTAL                                  | \$125.00       |

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: No contact w/ Victim  
EXCEPT AS REQUIRED BY FAMILY COURT ORDER  
VIOLATIONS

Appointed PD or appointed other counsel, \$35.13 TP  
Requires \$500 be paid to Clerk during probation.

\* Release Directly from LDC.

Beck A. Carney  
Clerk of Court/ Deputy Clerk  
Court Reporter: Tracie Perry

PRESIDING JUDGE [Signature]  
Judge Code: 015171  
Sentence Date: 12/7/06

Created by the South Carolina Department of Probation, Parole and Pardon Services

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of LEXINGTON FILED  
STATE VS.

INDICTMENT#: 06-GS-32-3893  
Probation CM#: CC-32-10-00198

ROBERT BAKER 2010 JUL 19 PM 12:13

AKA: \_\_\_\_\_  
Race: W Sex: MALE  
DOB: [REDACTED] LEXINGTON  
SSN: \_\_\_\_\_  
SID#: 1184757

Name of Original Offense: ADULT  
Original AWW#: STRAIGHT INDICTMENT  
Date of Original Offense: 8/30/05  
Conviction S.C. Code §: 17-25-0130  
Conviction CDR Code #: 1 1 1 1 3  
Original Sentence: 10 y 5 m 5 y PMA

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 12/7/06 in the Court of General Sessions of LEXINGTON County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on \_\_\_\_\_, as set forth in the attached warrant(s) or citation(s) dated 7/15/10. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation; (List by number or indicate special conditions as provided in the affidavit) #6

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 10 ~~months~~ years the remainder of the original sentence, and/or pay \$ \_\_\_\_\_.
- the suspended sentence be revoked and the above named defendant be required to serve \_\_\_\_\_ months/years of the original sentence and/or pay \$ \_\_\_\_\_; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).

Additional Conditions ordered by the Court:

SEX OFFENDER REGISTRY  
TERMINATE  
CONSECUTIVE TO SENTENCE RECEIVED IN LEXINGTON COUNTY ON 7/15/200

- The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- The defendant has previously served 0 months/years on this sentence.  
(split sentence time and/or prior partial revocation time)
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 15 day of JULY, 2010  
LEXINGTON, SC

[Signature]  
Presiding Judge 11th Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature \_\_\_\_\_

Witnessed by \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ SC

STATE OF SOUTH CAROLINA

vs.

Robert Allen Baker,

Defendant.

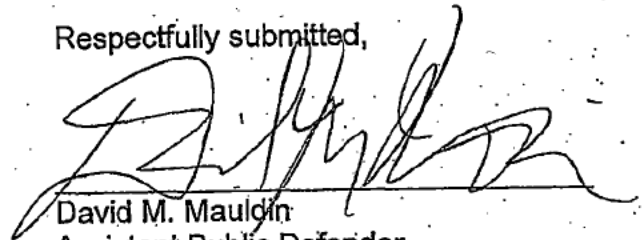
STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Indictment #: 06-GS-32-3893  
Probation C/W#: CC-32-10-0018

**RULE 203(B) EXPLANATION**

Pursuant to Rule 203(B)(iv), the undersigned asserts that he does not have a good faith basis to believe that any issues are properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right to appeal, and after consultation, the undersigned has filed the instant appeal at the request of the Appellant because the Sixth Amendment requires counsel to follow the Appellant's request. See *Frazer v. South Carolina*, 430 F.3d 696, 706 (4<sup>th</sup> Cir. 2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate on behalf of his client.'") (quoting *Anders v. California*, 386 U.S. 738, 744 (1967)).

Respectfully submitted,



David M. Mauldin  
Assistant Public Defender  
407 1/2 West Main Street  
Lexington, South Carolina  
(803) 785-8873

Lexington, South Carolina  
July 19, 2010

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of General Sessions

HONORABLE R. KNOX MCMAHON, CIRCUIT COURT JUDGE

Indictment No.: 2006-GS-32-3893

Probation C/W No.: CC-32-10-0018

The State, ..... Respondent.

V.

Robert Allen Baker, ..... Appellant.

NOTICE OF APPEAL

Robert Allen Baker, appeals his violation of probation hearing and sentence in this case. The sentence was imposed by the Honorable R. Knox McMahon on July 15, 2010.



David M. Mauldin  
Asst. Public Defender  
407 ½ W. Main Street  
Lexington, SC 29072  
(803) 785-8873

OTHER COUNSEL OF RECORD:

Ben Aplin, Counsel for Probation  
S.C. Dept of Probation, Parole and Pardon Services  
P.O. Box 50666  
Columbia, SC 29250

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of General Sessions

HONORABLE R. KNOX MCMAHON, Circuit Court Judge

Case No.: 2006-GS-32-3893

Probation C/W No.: CC-32-10-0018

The State, ..... Respondent.

V.

Robert Allen Baker, ..... Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Ben Aplin, by depositing a copy of it in the United States Mail, postage prepaid, on July 20, 2010, addressed to Ben Aplin, Counsel for Probation, S.C. Dept of Probation, Parole and Pardon Services, P.O. Box 50666, Columbia, SC 29250.

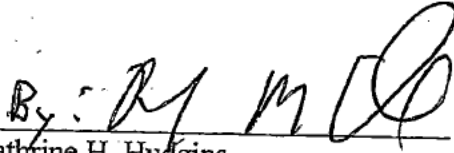


David M. Mauldin  
Asst. Public Defender  
407 ½ W. Main Street  
Lexington, SC 29072

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 20th, 2011

By: 

Kathrine H. Hudgins  
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Lexington County

R. Knox McMahon, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

ROBERT ALLEN BAKER,

APPELLANT

---

FINAL ANDERS BRIEF OF APPELLANT

---

KATHRINE H. HUDGINS  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
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ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS.....1

TABLE OF AUTHORITIES.....2

STATEMENT OF ISSUE ON APPEAL.....3

STATEMENT OF THE CASE.....4

ARGUMENT.....5

CONCLUSION.....7

PETITION TO BE RELIEVED AS COUNSEL.....8

TABLE OF AUTHORITIES

**Cases**

State v. Hamilton, 333 S.C. 642, 511 S.E.2d 94 (Ct.App.1999)..... 6

State v. Proctor, 345 S.C. 299, 546 S.E.2d 673 (Ct.App.2001)..... 5

STATEMENT OF ISSUE ON APPEAL

Did the probation judge abuse his discretion in ordering the probation violation sentence to run consecutive to the 30 year sentence imposed for several charges to which appellant pled guilty?

STATEMENT OF THE CASE

On December 7, 2006, Baker appeared before the Honorable Thomas W. Cooper, waived grand jury presentment and pled guilty to assault and battery of a high and aggravated nature [ABHAN], indictment #2006-GS-32-3893. Pursuant to a recommendation from the State, Judge Cooper sentenced Baker to ten years suspended upon the service of time served with five years of probation.

On July 15, 2010, while Baker was still on probation, he appeared before the Honorable R. Knox McMahon and pled guilty to four counts of criminal sexual conduct with a minor second degree and two counts of lewd act, indictments #2009- GS-32-1600, 1597; 2010-GS-32-2101, 2103, 2105, 2108. The guilty pleas constituted a violation of probation that was handled at the same time as the guilty pleas. Judge McMahon sentenced Baker to an aggregate sentence of 30 years for the guilty pleas. Judge McMahon revoked probation in full and ordered the sentence to run consecutive to the 30 year sentence. On July 20, 2010, Baker filed a timely notice of intent to appeal the probation revocation and an explanation pursuant to Rule 203(B). This appeal follows.

## ARGUMENT

The probation judge abused his discretion in ordering the probation violation sentence to run consecutive to the 30 year sentence imposed for several charges to which appellant pled guilty.

The judge ordered a full ten year revocation and ordered that the revocation sentence be served consecutive to the 30 years sentence imposed the same day for various guilty pleas. (R. p. 37). The judge also noted on the order that Baker had served zero time for the ABHAN charge for which he was placed on probation. Counsel did not object to the finding. As Baker was given credit for time served when he pled guilty to the ABHAN, this finding appears to be in error and may need to be addressed in post conviction relief. (R. p. 36).

The guilty pleas were entered pursuant to a 30 year sentence negotiation with the State. (R. p. 14, lines 7 – p. 15, p. 16, lines 1-4). The probation violation was not specifically mentioned in the plea negotiation. Counsel for Baker asked that the probation sentence run concurrent to the 30 year negotiated sentence. (R. p. 29, lines 18-23). Probation was unable to reach the victim in the ABHAN case but the victim's mother, who worked with the sheriff's department, appeared and asked for consecutive time. (R. p. 25, lines 7 – p. 27, p. 28, lines 1-8). The probation department did not ask for consecutive time and the prosecutor did not ask for consecutive time.


The determination of whether or not to revoke probation is within the trial court's discretion. State v. Proctor, 345 S.C. 299, 301, 546 S.E.2d 673, 674 (Ct.App.2001). "This court's authority to review such a decision is confined to correcting errors of law unless the lack of a legal or evidentiary basis indicates the circuit judge's decision was arbitrary and capricious." State v. Hamilton, 333 S.C. 642, 647, 511 S.E.2d 94, 96

(Ct.App.1999). The judge provided no explanation for the imposition of the consecutive sentence. The decision to impose a consecutive sentence lacks an evidentiary basis and constitutes an abuse of discretion.

CONCLUSION

Based on the above argument, the consecutive sentence for the probation revocation should be reversed and the case remanded for a new probation violation hearing.

Respectfully submitted,

  
\_\_\_\_\_  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of June, 2011.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Lexington County

R. Knox McMahon, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

ROBERT ALLEN BAKER,

APPELLANT

---

PETITION TO BE RELIEVED AS COUNSEL

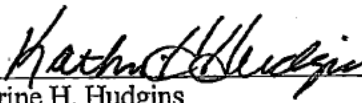
---

Counsel for Robert Allen Baker states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge R. Knox McMahon, which was held on July 15, 2010, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Robert Allen Baker.

Respectfully submitted,

  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

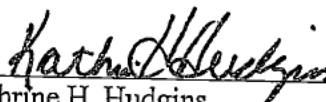
This 9th day of June, 2011.

8

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 9, 2011



Kathrine H. Hudgins  
Appellate Defender

S.C. Commission on Indigent Defense  
Division of Appellate Defense  
1330 Lady Street, Suite 401  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

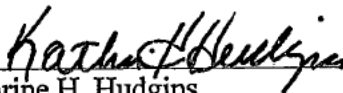
V.

ROBERT ALLEN BAKER,

APPELLANT

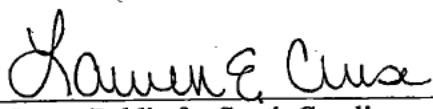
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at State of South Carolina Department of Probation, Parole, and Pardon Services, Post Office Box 50666, Columbia, South Carolina 29250; and a copy of the Final Anders Brief of Appellant and a copy of the Record on Appeal on Robert Allen Baker, #341795 at Lee Correctional Institution, this 9th day of June, 2011.

  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 9th day of June, 2011.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: August 23, 2014.

2012-UP-159 - State v. Baker

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

The State, Respondent,

v.

Robert Allen Baker, Appellant.

---

Appeal From Lexington County  
R. Knox McMahon, Circuit Court Judge

---

Unpublished Opinion No. 2012-UP-159  
Submitted February 1, 2012 – Filed March 7, 2012

---

**APPEAL DISMISSED**

---

Appellate Defender Kathrine H. Hudgins, of Columbia, for  
Appellant.

J. Benjamin Aplin, of Columbia, for Respondent.

**PER CURIAM:** Robert Allen Baker appeals his probation revocation, arguing the circuit court erred in revoking his probation in full and ordering the probation revocation sentence to run consecutive to a separate thirty-year sentence. After a thorough review of the record and counsel's brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.[1]

**APPEAL DISMISSED.**

**WILLIAMS, THOMAS, and LOCKEMY, JJ., concur.**

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

FILED  
FORM 5

STATE OF SOUTH CAROLINA 2012 JUL -2 AM 9: 53

IN THE COURT OF COMMON PLEAS

COUNTY OF Lexington  
Robert Allen Bates 371795  
BETH A. CARRIGG  
COURT  
LEXINGTON SC

Full name and prison number (if any) of Applicant. )

v. )

State of South Carolina )

Amended

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lee Correctional Institute 996 Wisacky Hwy Bishopville, S.C.
2. Name and location of Court which imposed sentence General Session - Lexington County.
3. Name(s) of co-defendant(s) (if any) \_\_\_\_\_
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 

|     |                        |                        |
|-----|------------------------|------------------------|
| (a) | <u>2010-GS-32-2103</u> | <u>2010-GS-32-2101</u> |
| (b) | <u>2010-GS-32-2105</u> | <u>2010-GS-32-2108</u> |
| (c) | <u>2009-GS-32-1600</u> | <u>2009-GS-32-1597</u> |
5. The date upon which sentence was imposed and the terms of the sentence:
 

|     |  |
|-----|--|
| (a) | <u>07-15-2010: 20 and 10 year Consecutive Sentence</u> |
| (b) | _____  |

A TRUE COPY  
[Signature]  
Lex. Co. C.C.E., G.S. & E.C.

Revised 3/2003

- (c) \_\_\_\_\_
- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty XX
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_

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

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

- (a) the name of each Court to which you appealed:
  - i. South Carolina Court of Appeals in Lexington County
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

- (b) the result in each such Court to which you appealed:
  - i. Appeal Dismissed
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

- (c) the date of each such result:
  - i. Filed March 7, 2012
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

- (d) if known, citations of any written opinion or orders entered pursuant to such results:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

- (a) \_\_\_\_\_
- (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

2012 JUL -2 AM 9:53  
 BETH A. CARRIGG  
 CLERK OF COURT  
 LEXINGTON SC

FILED

- (b) Denial of Due Process
- (c) \_\_\_\_\_

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

- (a) Failure to Introduce evidence of DNA does not match Accused
- (b) Failure to Introduce evidence of Mental Incompetency
- (c) Prosecutorial misconduct due to Brady / Riddle violation

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

- (a) any petition in a State Court under South Carolina Law? Yes
- (b) any petition in State or Federal Courts for habeas corpus or post-conviction 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

2012 JUL - 2 AM 9: 58  
 BETH A. CARROLL  
 CLERK OF COURT  
 LEXINGTON SC

FILED

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. Direct Appeal of Guilty Plea and Probation Violation
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. S.C. Court of Appeals in Lexington County
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. Appeal Dismissed
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (d) the date of each such disposition:

Revised 3/2003

- i. Filed March 7, 2012
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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 EITH A. CARLISSE  
 CLERK OF COURT  
 LEXINGTON, VA SC

FILED

14. Has any ground set forth in (10) been previously presented to this or any other State or Federal, in any petition, motion or application which you have filed?  
No

15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (b) the proceedings in which each ground was raised:
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_

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

- (a) Ineffective assistance of Counsel
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
  - (b) your trial, if any? NO
  - (c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

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. David M. Mauldin Eleventh Circuit Public Def. OFF. 407 1/2 W. Main
- ii. Street Lexington, S.C. 29072 = Kathrine H. Hudgins S.C. Division
- iii. of Appellate Defense P.O. Box 11589 Columbia, S.C. 29211

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

- i. Plea and Sentencing with David M. Mauldin
- ii. Direct Appeal of Guilty Plea and Sentencing with Kathrine H. Hudgins
- iii. \_\_\_\_\_

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

A new Plea and Sentence reduction

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

No

FILED

2012 JUL -2 AM 9:53  
BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC

Revised 3/2003

STATE OF SOUTH CAROLINA )  
 )  
County of Lexington )  
Robert Allen Baker )

VERIFICATION

I, Robert Allen Baker, 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.

Robert Baker

SWORN to and subscribed before me this 18  
day of June, 2012.

Debra Sims (L.S.)  
Notary Public

My Commission Expires: 11-4-2015

**A TRUE COPY**  
[Signature]  
Lex. Co. C.C.P., G.S. & F.C.

2012 JUL -2 AM 9: 53  
BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC

FILED

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

Robert Allen Baker

I, \_\_\_\_\_, 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.

Robert Baker

Applicant

SWORN or affirmed to and subscribed before me this  
18 day of June, 2012.

Debra Sims  
Notary Public

My Commission Expires: 11-4-2015

A TRUE COPY

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

FILED

2012 JUL -2 AM 9:53  
BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2012 CP-32-01112

ROBERT ALLEN BAKER

FILED

STATE OF SOUTH CAROLINA

PLAINTIFF(S)

2015 MAY 29 A 11:25 DEFENDANT(S)

Submitted by: Judge

BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC

Attorney for :  Plaintiff  Defendant  
or  
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court: This case was called for a PCR status conference on May 28, 2015. It is ordered that an attorney be appointed to represent Mr. Baker on this PCR application.

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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

| Judgment in Favor of<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|--|--|--|
| N/A  |  | \$   |
|  |  | \$   |
|  |  | \$   |

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

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

*William P. ...*  
Circuit Court Judge

2050

Judge Code

5/28/2015

Date



ORIGINAL

FORM 4

JUDGMENT IN A CIVIL CASE

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

CASE NO. 2012 CP-32-01112

Robert Allen Baker, 341795,

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Judge

Attorney for :  Plaintiff  Defendant  
or  
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court: As a result of a status conference held today, the State's motion to dismiss is scheduled for August 1, 2016 at 10:00 a.m.

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk :

Set hearing for 10:00 a.m. on August 1, 2016

FILED  
JUL - 5 A 9 45  
M.A. CARROLL  
CLERK OF COURT

INFORMATION FOR THE JUDGMENT INDEX

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

| Judgment in Favor of<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|--|--|--|
| N/A  |  | \$   |
|  |  | \$   |
|  |  | \$   |

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

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

William F. Sterling  
Circuit Court Judge

2050  
Judge Code

June 29, 2016  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on the 15th day of ~~June~~ July, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 15th day of ~~June~~ July, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Anna Rawl Good

ATTORNEY(S) FOR THE PLAINTIFF(S)

Johanna Valenzuela, A.G.

PO Box 11549

Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/KAC  
CLERK OF COURT

**Court Reporter: None**

FILED  
JUL - 5 A 9 15  
CLERK OF COURT  
LEXINGTON, SC

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS  
2012-CP-32-1112

Robert Baker  
Applicant,

VS.

State of South Carolina

Respondent.

MOTION FOR RELEASE  
OF COUNSEL

WITH A GARRIGG  
CLERK OF COURT  
LEXINGTON SC

2016 JUL 26 A 11:34

FILED

In postconviction proceeding, petitioner sought to argue that my 6th United States Constitution alleging effective assistance of counsel is being denied by State appointed Counsel Anna R. Good. I am a indigent defendant, a poor man. A rich man who has more money than I, going through court proceedings who has of right enjoys benefit of counsel's examination into record, research of law, and marshalling of arguments and defenses on his behalf because while indigent I am forced to defend for myself. I fill I will not get a fair P.C.R. hearing because counsel will be bias in all proceedings. Without the help of an adequate attorney, a prisoner will have difficulties investigative and understanding of P.C.R. trial strategy. Petitioner is unlearned in the law, may not comply with the State's procedural rules or may misapprehend constitutional law. While confined to prison, the prisoner is in no position to develop the evidence outside the trial record. Defense counsel tests the prosecution's case to ensure that the proceedings serve the function of adjudicating guilt or innocence, while protecting the rights of the person charged. Powell Vs. Alabama, 287 U.S. 45, 68-69, 53 S.Ct. 55, 77 L.Ed. 158 (1932) [the defendant requires the guiding hand

of counsel at every step in the proceeding against him, without it, he faces the danger of conviction because he does not know how to establish his innocence").

On 6-15-2015 I got representation from Anna R. Good for my P.C.R. Anna came to Kirkland Corrections Institution on 6-23-2015 for 30 minutes and I have not seen her since. I have ask for Anna R. Good to come and to talk about my defends in numerous letters.

Date: July, 4 2016

IS/ Robert Babin S CDC #341795  
Broad River Correction Institution  
4460 Broad River Rd.  
Columbia, S.C. 29210

FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2012CP3201112

Robert Allen Baker  
 #341795

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

FILED  
 2012 AUG - 2 A 11:46  
 BETH A. CARRIGG  
 CLERK OF COURT  
 LEXINGTON, SC

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

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

**Applicant's Motion to Relieve Counsel is Denied; State's Motion to Dismiss is Denied. Formal Order to follow.**

ORDER INFORMATION

This order  ends  does not end the case.  
 Additional Information for the Clerk: \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX

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

| Judgment in Favor of<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|--|--|--|
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|  |  |  |

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

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

*De W. Mills*

*2130*

8/2/2016

Circuit Court Judge

Judge Code

Date

**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on August 2 , 2016, to attorneys of record or to parties (when appearing pro se) as follows:

Anna Rawl Good PO Box 7284 Columbia, SC 29202

Johanna Catalina Valenzuela PO Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/kpk

Court Reporter

Beth A. Carrigg - Clerk of Court

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2016 AUG - 2 4 11 48  
BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON, SC

FILED

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

Robert Baker,  
Applicant,

VS.

State of South Carolina,  
Respondant.

IN THE COURT OF COMMON PLEAS  
2012-CP-32-1112

MOTION FOR RELEASE OF COUNSEL

FILED  
JUL 25 A 4:02  
JULIA A. CARROLL  
CLERK OF COURT  
LEXINGTON, SC

PLEASE TAKE NOTICE, Petitioner by way of Pro se moves the Court of Common Pleas on Motion For Release of Counsel. Without the help of an adequate attorney, a prisoner will have difficulties investigative and understanding of P.C.R. trial strategy. I am unlearned in the law, and may not comply with the State's procedural rules or may misapprehend Constitutional law. My education background is follow's... I graduated high school with a Certificate and not a high school Diploma. I was in special classes for reading, spelling and comprehending.

While in SCDC, I have been diagnosed with Traumatic Brain Injury (T.B.I.) by the Department of Mental Health by Dr. Woods.

I am asking for another attorney that will give me the guiding hand of counsel and help and loyalty to me and my case.

This is on a defends of " Poor Man and Rich Man Court proceedings and Rich man enjoys benefit's of Payed counsel to examination into record, research of law, and marshalling of arguments and defend on his behalf.

Post-Conviction Counsel has failed in the following.....

(A) To come and talk to me and strategize about my defends for my up coming case. P.C.R. 2012-CP-32-1112.

(B) Has failed to send me a copy of my Discovery and documents that Ms. Good has obtained on my behalf.

(C) Has failed to come and talk to me on amending my P.C.R. 2012-CP-32-1112.

(D) Has failed to come and see me by numerous letters.

Dates:

August 29, 2016

September 30, 2016

October 6, 2016

Please also take notice; I have documents to show how Anna R. Good is ineffective but I can't send copies of documents by SDC Policy / Procedure GA-01.03; Inmate

Access To The Court's § 13.2; I can not get a copy of no documents that have

(2 of 4)

been solely originated, generated, written, typed, or created by an inmate. The problem is; The self generated /created motion and letters going to Ms. Good has a mailroom stamp with the date received stamp on the papers that I can not authentic by hand. That stamp makes it a legal documents for courts to go off of.

# CERTIFICATE OF SERVICE

In Re: Motion For Release Of Counsel

PLEASE TAKE NOTICE, I hereby certify that a copy of the foregoing motion was this date served upon the following individual by placing a copy of the same via mail to his last known address as follows:

Honorable William P. Keesley  
Lexington County Judicial Center  
205 East Main Street  
Lexington, S.C. 29072

Robert Baker  
Robert Baker  
SCDC# 341595  
Q2-B-212  
Perry Corr. Inst  
430 Oaklawn Road  
Pelzer, S.C. 29669

Sworn to before me this 21<sup>st</sup> day  
of October, 2016

Danny C. Michael  
Notary Public For South Carolina

My Commission Expires: 1-23-2023

STATE OF SOUTH CAROLINA )  
COUNTY OF LEXINGTON )

IN THE COURT OF COMMON PLEAS  
Indictment Number: 2012-CP-32-1112

Robert Baker, #341795,

ORIGINAL

ORDER RELIEVING COUNSEL

BEITH A. CHAFFIN  
CLERK OF COURT  
LEXINGTON, SC

2016 NOV 28 P 1:41

FILED


The State of South Carolina,  
Defendant.

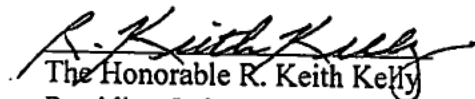
This matter comes before the Court by way of an application for post-conviction relief. An evidentiary hearing into the matter was scheduled for November 9, 2016, at the Lexington County Courthouse. After the hearing was scheduled, the Applicant filed a Motion to Relieve Counsel Anna Good on October 25, 2016.

Upon hearing from both parties and the Applicant himself, this Court finds that Anna Good is relieved as Applicant's counsel. This case will be continued until the next Post-Conviction Relief term of court in January 2017 and the Applicant is to represent himself unless he retains private counsel.

**IT IS THEREFORE ORDERED:**

1. That this post-conviction relief matter shall be continued and re-scheduled for the next term of court for post-conviction relief matters in January 2017;
2. The Applicant's appointed counsel Anna Good is relieved of her services;
3. The Applicant is to represent himself unless he retains private counsel; and
4. Applicant is to remain in the custody of the Respondent.

  
\_\_\_\_\_, South Carolina  
This 15 day of Nov, 2016

  
The Honorable R. Keith Kelly  
Presiding Judge  
Eleventh Circuit Court of Common Pleas

FORM 4

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2012CP3201112

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

Robert Allen Baker #341795

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Attorney for:  Plaintiff  Defendant  
 Self-Represented Litigant

Submitted by:

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order  ends  does not end the case.  
Additional Information for the Clerk: \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX

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

| Judgment in Favor of<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|--|--|--|
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If applicable, describe the property, including tax map information and address, referenced in the order:

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

Circuit Court Judge

Judge Code

12/5/2016

Date

For Clerk of Court Office Use Only

This judgment was entered on the 28th day of November, 2016, and a copy mailed first class or placed in the appropriate attorney's box on the 6th day of December, 2016, to attorneys of record or to parties (when appearing pro se) as follows:

**Robert Allen Baker #341795**  
Lee Corr Inst SMU Southside-136 990 Wisacky Hwy  
Bishopville, SC 29010

**Johanna Catalina Valenzuela**  
PO Box 11549 Columbia, SC 29211-1549

**Anna Good**  
PO Box 7284, Columbia, SC 29202

---

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

---

**ATTORNEY(S) FOR THE DEFENDANT(S)**

---

**Court Reporter**

---

**Beth A. Carrigg - Clerk of Court / kr**

---

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

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

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STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

ROBERT BAKER,

Applicant,

VS.

State of South Carolina,

Respondant.

IN THE COURT OF COMMON PLEAS  
2012-CP-32-1112

AMENDED APPLICATION  
FOR  
POST-CONVICTION RELIEF

PLEASE TAKE NOTICE, Based upon further investigation and research, the Post-Conviction Relief Application filed on behalf of the above name Applicant is hereby Amended as follows to include in addition to prior grounds stated in the original application for post-conviction relief:

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

Vacate, set aside and remand for further Proceedings.

COUNTY OF LEXINGTON  
LISA M. COMER, CLERK OF COURT  
LEXINGTON COUNTY JUDICIAL CENTER  
205 EAST MAIN STREET  
LEXINGTON, SC 29072-3484

2011 JAN 17 P 12:16

FILED

Ms. Anna R. Good (esq.)  
Post Office Box 7284  
Columbia, S.C. 29202

FILED

2017 JAN 17 P 12:16

COUNTY OF LEXINGTON  
LISA M. COMER, CLERK OF COURT  
LEXINGTON COUNTY JUDICIAL CENTER  
205 EAST MAIN STREET  
LEXINGTON, SC 29072-3494

ROBERT BAKER  
SCDC#341795  
Lieber Corr. Inst.  
A-B-31  
Post Office Box 205  
Ridgeville, S.C. 29472  
Page 1 of 3

December 21 of 2016

In Re: REQUEST FOR DISCOVERY, For Post-Conviction Relief; 2012-CP-32-1112.

Dear Ms. Good,

I am writing in concern of the above referenced matter.

In which, I am asking you to forward my Discovery that you have obtain while you represented me in my Post-Conviction Relief; 2012-CP-32-1112. I am asking for my entire file included, but are not limited to, the following; Discovery from the Lexington County Public Defender's office; SCDC Medical Records of all medical reports, notes, and mental health records from July 21, 2010 through November 8, 2010; Educational Records from the Swansea School District; Lexington County Detention Center Records; Palmetto Health Richland Hospital records from January 23, 2005 through February 5, 2005; pages, documents, photographs, any results of reports of physical or mental examinations made in connection with the particular case; any and all motions you have filed in connection with the particular case; An any paper that has my name "ROBERT ALLEN BAKER"; my SCDC#341795; or P.C.R. 2012-CP-32-1112 on it please forward it to me, an any and all Transcript of any record.

Moreover, I would also like for you to know that all of your time, help, and consideration in these endeavors on my behalf is greatly appreciated by me!

With warm personal regards, I am

Very truly yours,

*Robert Baker*

ROBERT BAKER

2011 JAN 17 P 12:17  
COUNTY OF LEXINGTON  
LISA M. COMER, CLERK OF COURT  
LEXINGTON COUNTY JUDICIAL CENTER  
205 EAST MAIN STREET  
LEXINGTON, SC 29072-3494

FILED

CERTIFICATE OF SERVICE

In Re: REQUEST FOR DISCOVERY; For Post-Conviction Relief; 2012-CP-32-1112.

PLEASE TAKE NOTICE, I hereby certify that a copy of the foregoing motion was this date served upon the following individual by placing a copy of the same via mail to last known address as follows:

LAW OFFICE OF ANNA GOOD, LLC  
Post Office Box 7284  
Columbia, S.C. 29202

Ms. Beth Carrigg  
Clerk Of Court  
Lexington County Judicial Center  
205 East Main Street  
Lexington, S.C. 29072  
Copy For File

COUNTY OF LEXINGTON  
LISA M. COMER, CLERK OF COURT  
LEXINGTON COUNTY JUDICIAL CENTER  
205 EAST MAIN STREET  
LEXINGTON, SC 29072-3494

2017 JAN 17 P 12:11

FILED

ROBERT BAKER  
SCDC#341795  
Lieber Corr. Inst.  
A-B-31  
Post Office Box 205  
Ridgeville, S.C. 29472

Sworn to before me this \_\_\_\_\_ day  
of December, 2016

Notary Public For South Carolina  
My Commission Expires: \_\_\_\_\_

To whom this may concern,

August 29, 2016

My name is Robert Allen Baker, S.C.D.C. #341795. I am diagnosed with Traumatic Brain Injury (T.B.I.) by Mental Health Department in S.C.D.C. by Dr. Woods. I believe I am 1 of 4 in S.C.D.C. In April 13, 2015, I was sent to Kirkland Corr. Inst. to F2, I.C.S. I do not take medication. I was on Lithium, Halolol, Risperdal, Thorazin and Trazodone and a lot of other medication is SCDC that I can not remember. I had Mr. Thomas as my counselor there at I.C.S. and he was not certificated in Mental Health counseling. He push for me to be kick out because I stopped all medication. I got off all medication on 8-3-15 and release on 1-25-16 to general population on Broad River Corr. Inst in Wateree Dorm and was not a Mental Health Dorm. I am trying to get the proper help I need on my own like Anger Management for mood changes, anger-probles, quick temper, Impules disorders and a walking talking time bomb and the clock is at zero. "Help Please". I was taken unger management classes and I was learning on ways to help and control my anger while I was in I.C.S. program.

I was under the impression I would come to Perry Corr. Inst. for a 45 day evaluation to see if I should be back in I.C.S. at K.C.I. in F2 dorm for Mental Health Inmates. P.C.I. will not have the proper Mental Health Staff because of the SCDC Administration and the Mental Health case TR vs. SCDC, No. 2005-CP-40-02425 because it is more work for the Mental Health Staff so they are quitting. The Doctor that seen me here at P.C.I. over the C.R.T. told me I have to take a Anger Management class witch is only for 8 weeks but they do not have or will not have the Staff to do it here at P.C.I. I have been here since June 27, 2016; and no classes. I can only go to the worst yards SCDC's got because I am area Mental Health which is Lee Corr. Inst., Leiber Corr. Inst. or Perry Corr. Inst. and I am from Swansea, S.C., 17 miles down 321 Savannah Hwy. Kirkland Corr. Inst. is as close as I can get in S.C.D.C. which has what I need to control my Mental Health diagnoses as (T.B.I.). I need the proper Mental Health care because I'm suffering from (T.B.I.) and it is extream for me because I do not take medication.

I have a up coming P.C.R. Court case pending in Lexington County in Oct. / Nov. Court term. I am fighting Mental Health in my P.C.R. because I did not have evaluation to see if I was competent to stand trial for the charges I am in here fore. I need all the help I can get so I can get proper help S.C.D.C. Mental Health. Thank you.

**RECEIVED**

AUG 29 2016

Sincerely,

Robert Baker

COUNTY OF LEXINGTON  
184 M. COMER, CLERK OF COURT  
LEXINGTON COUNTY JUDICIAL CENTER  
205 EAST MAIN STREET  
LEXINGTON, SC 29072-3598

FILED  
2017 JAN 17 PM 12

Handwritten P.C.I. MAILROOM

copies forward to Director Bryan Stirling S.C.D.C.; A/D M... Call of S.C.D.C.; Nelson Mullins Riley & Scarborough, Anna R. Good; Lexington County Court for P.C.R. File.

Ms. Beth Carrigg  
Clerk of Court  
Lexington County Judicial Center  
205 East Main Street  
Lexington, S.C. 29072

FILED

2017 JAN 17 P 12:16

COUNTY OF LEXINGTON  
LISA M. COMER, CLERK OF COURT  
LEXINGTON COUNTY JUDICIAL CENTER  
205 EAST MAIN STREET  
LEXINGTON, SC 29072-3494

ROBERT BAKER  
SCDC# 341795  
A-B-31  
Lieber Corr. Inst.  
Post Office Box 205  
Ridgeville, S.C. 29472

December 21 of 2016

In Re: Copy's of Document's in State Vs. ROBERT A. BAKER, indict. no(s). 09-GS-32-1600, et. al / 2012-CP-32-1112.

Dear Ms. Carrigg,

I am writting in concern of these above referenced matters.

In which, I am asking for a copy of the court order DNA sample the judge order back in 2009, and I am asking for the court order of R. Kelly's order on November 9, 2016 of self-representation for case 2012-CP-32-1112 please.

Also, how do I get my legal file from Anna R. Wood law office. I have ask for a copy from her an no such luck.

Further more, I would like for you to know that all of your time, help, and consideration in these endeavors on my behalf is greatly appreciated by me!

I look forward to hearing from you soon!

Sincerely,  
Robert Baker

Ms. Carrigg,

I would like you to clock stamp all of these Document's and copy and put into record and please forward the Document's to the Assistant Attorney's General office please.

If you would also be so kind; forward the letter to Anna Good. Maybe If she see this coming from you, then maybe I can get my file/Discovery from her, for my P.C.R. 2012-CF-32-1112 case. Please send me a clock stamp copy back please.

Would you please send me a paper telling me when my P.C.R. court date is? Thank you; for all of your time, help, and consideration in these endeavors on my behalf is greatly appreciated by me!

Sincerely,

Robert Baker

2012 JAN 17 PM 16  
LEXINGTON  
LISA M. COMER, CLERK OF COURT  
LEXINGTON COUNTY JUDICIAL CENTER  
205 EAST MAIN STREET  
LEXINGTON, SC 29072-3494

FILED

ROBERT BAKER  
SCDC#341795  
A-B-31

Lieber Corr. Inst.  
Post Office Box 205  
Ridgeville, S.C. 29472

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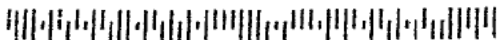
MS. BETH CARRIGG  
Clerk of Court  
Lexington County Judicial Center  
205 East Main Street  
Lexington, S.C. 29072

TIME  
SENSITIVE  
MATERIAL

POST CLASS

FOR LEGAL USE ONLY

85



RECEIVED

DEC 21 2016

MAIL ROOM  
LIEBER C.I.

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS  
2012-CP-32-1112

Robert Baker  
Applicant,

VS.

State of South Carolina,  
Respondant.

AMENDED APPLICATION  
FOR  
POST CONVICTION RELIEF

Based upon further investigation and research, the Post-Conviction Relief Application filed on behalf of the above named Applicant is hereby Amended as follows to include in addition to prior grounds stated in the original application for post-conviction relief:

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

- (a) Ineffective Assistance Of Counsel.
- (b) Denial of Due Process
- (c) Prosecutorial Misconduct
- (d) Judicial Misconduct
- (e) Conflict Of Interest
- (f) Procedural Default
- (g) Protocol Default

COUNTY OF LEXINGTON  
LISA M. COMER, CLERK OF COURT  
LEXINGTON COUNTY JUDICIAL CENTER  
205 EAST MAIN STREET  
LEXINGTON, SC 29072-3494

2017 MAR -2 P 4: 31

FILED

ROBERT BAKER  
SCDC # 341795  
Ashley-A-59  
Lieber Corr. Inst.  
P.O. Box 205  
Ridgeville, S.C. 29472

TIME  
SENSITIVE  
MATERIAL

02 FEB 21 2017

Lisa Comer  
Clerk of Court  
Lexington County Judicial Center  
205 East Main Street, Suite #128  
Lexington, S.C. 29072



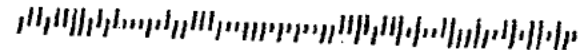
**RECEIVED**

FEB 21 2017

**FOR LEGAL USE ONLY**

MAILROOM  
LEB 1000

2907233599 0011



STATE OF SOUTH CAROLINA )

COUNTY OF LEXINGTON )

Robert A. Baker )

Plaintiff, )

vs. )


State )

Defendant. )

IN THE COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-32-2988

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

|  |   |
|--|---|
| Plaintiff's Attorney:<br>Arthur k. Alken, Bar No. 12983<br>Address:<br>2231 Devine Street Suite 201<br>Phone: 803-799-5205 Fax 803-799-5206<br>E-mail: art@alken & Hightower.com Other: 803-269-6590   | Defendant's Attorney:<br>Sherrie Butterbaugh, Bar No. _____<br>Address:<br>SC Attorney General's Office<br>PO Box 11549<br>Phone: 803-734-6305 Fax 803-734-3742<br>E-mail: sbutterbaugh@scag.gov Other: _____ |
| <input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)<br><input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)<br><input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)  |   |
| <b>SECTION I: Hearing Information</b>  |   |
| Nature of Motion: _____<br>Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO  |   |
| <b>SECTION II: Motion/Order Type</b>   |   |
| <input checked="" type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.  |   |
| <br>Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant  |   |
| November 26, 2017<br>Date submitted  |   |
| <b>SECTION III: Motion Fee</b>   |   |
| <input type="checkbox"/> PAID - AMOUNT: \$ _____<br><input type="checkbox"/> EXEMPT: (check reason)  |   |
| <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support<br><input type="checkbox"/> Domestic Abuse or Abuse and Neglect<br><input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party<br><input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief<br><input type="checkbox"/> Motion for Stay in Bankruptcy<br><input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)<br><input type="checkbox"/> Proposed order submitted at request of the court; or,<br>reduced to writing from motion made in open court per judge's instructions<br>Name of Court Reporter: _____<br><input type="checkbox"/> Other: _____ |   |
| <b>JUDGE'S SECTION</b>   |   |
| <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other: _____   | JUDGE CODE _____<br>Date: _____   |
| <b>CLERK'S VERIFICATION</b>  |   |
| Collected by: _____ Date Filed: _____<br><input type="checkbox"/> MOTION FEE COLLECTED: \$ _____<br><input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____  |   |

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

Robert A. Baker,

CA No.: 2012-CP-32-01112

Applicant,

vs.

**APPLICANT'S MOTION FOR  
CONTINUANCE**

State.,

Respondent.

**TO: ALL OTHER COUNSEL OF RECORD:**

The above-named Applicant, by and through his counsel, respectfully requests a continuance of the hearing in the above captioned PCR case, and as grounds therefore, states as follows:

1. This case is set to begin at 9:30 AM on December 13, 2017, and the requested continuance will continue the hearing in this case to the next Eleventh Circuit PCR term, which is in February of 2018;
2. The Clerk of Court appointed Applicant's counsel to this case on June 6, 2017;
3. After his appointment, Applicant's counsel does not believe that he received a copy of the State's Return and attachments because those documents are not in Applicant's counsel's file.
4. Receiving the Return and attachments is critical to Applicant's counsel's preparation of PCRs for trial because Applicant's counsel's practice is to schedule meetings with PCR clients following receipt of the Return and attachments.
5. Receipt of the Return and attachments also alerts Applicant's counsel that a PCR is subject to being called for trial at the next PCR term.

6. Since Applicant's counsel did not believe that he had received a copy of the State's Return and attachments, Applicant's counsel did not schedule a meeting with Applicant and did not believe that this PCR was subject to being called for trial at this term.

7. It is now too late to meet with Applicant and prepare his case for a hearing because of the number and breadth of the issues raised in the Application and Amendments.

8. Applicant's counsel has five PCRs scheduled in the First Circuit for December 12, 2017, seven other PCRs scheduled in the Eleventh Circuit for December 13, 2017, and three PCRs scheduled in the Eleventh Circuit for December 14, 2017. All these PCRs are going forward.

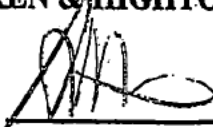
9. Applicant's counsel is informed and believes that the above constitute good grounds for the requested continuance.

10. The attorneys for the State take no position on this request for a continuance except for their insistence that this case be set down for a hearing at the next Eleventh Circuit PCR term in February of 2018.

**WHEREFORE**, Plaintiff prays that this Court continue this case until the next Eleventh Circuit PCR term in February of 2018.

Respectfully Submitted,

**AIKEN & HIGHTOWER, P.A.**

BY:   
Arthur K. Aiken SC Bar #12983  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Tel: (803) 799-5205  
Fax: (803) 799-5206  
Email: [art@aikenandhightower.com](mailto:art@aikenandhightower.com)  
**ATTORNEYS FOR PLAINTIFF**

Columbia, South Carolina  
November 26, 2017

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

Robert A. Baker,

Plaintiff,

vs.

State.,

Defendant.

C/A# 2012-CP-32-01112

**CERTIFICATE OF SERVICE**

I, Arthur K. Aiken of Aiken & Hightower, P.A., certify that I have on this day, November 26, 2017, affected service of **PLAINTIFF'S MOTION FOR CONTINUANCE** upon counsel for the Defendant via United States Mail addressed to:

Assistant Attorney General Sherrie Butterbaugh  
SC Attorney General's Office  
PO Box 11549  
Columbia, SC 29211-1549  
*Attorney for Defendant*

This motion was also sent to Sherrie Butterbaugh by email addressed to sbutterbaugh@scag.gov on November 26, 2017

By: 

Arthur K. Aiken  
Aiken & Hightower, P.A.  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Phone: 803-799-5205  
Fax: 803-799-5206  
[art@aikenandhightower.com](mailto:art@aikenandhightower.com)

Columbia, SC  
November 26, 2017

**COPY**

FILED

STATE OF SOUTH CAROLINA )

COUNTY OF LEXINGTON )

2017 JUN -6 AM 9:17

IN THE COURT OF COMMON PLEAS

LISA M. COMER

CLERK OF COURT

LEXINGTON SC

ROBERT ALLEN PARKER,  
#241795

Applicant )

DOCKET NO. 2012 -CP-32-01112

STATE OF SOUTH CAROLINA )

Respondent )

ORDERING APPOINTING COUNSEL

POST CONVICTION RELIEF APPLICATION

The Applicant has filed an application for post-conviction relief pursuant to Section 17-27-20, South Carolina Code of Laws, and it appears that the Applicant is indigent.

In accordance with the order and direction of the Court in such case, IT IS ORDERED that Arthur K. Nicks, Esquire, 231 ... St. (Address)

..., Telephone No. ..., is appointed to represent the Applicant in this proceeding.

The trial attorney was ...

The court reporter at the trial was ...

Attention is directed to a publication of the Post Conviction Relief Subcommittee of the Young Lawyers Division, Post Conviction Relief Proceedings in South Carolina, South Carolina Bar, 1990.

Lisa M. Comer  
Clerk of Court for LEXINGTON County

Lexington, South Carolina  
..., 2017

White Copy - Original

Yellow Copy - To Attorney

Pink Copy - To SC Attorney General

LCF - 712 (04/03)

STATE OF SOUTH CAROLINA  
In the Supreme Court

CERTIORARI TO BERKELEY COUNTY  
Court of Common Pleas  
The Honorable J. Derham Cole, PCR Judge

**RECEIVED**

**DEC 27 2019**

**S.C. SUPREME COURT**

Appellate Case No. 2018-001854

Robert A. Baker,

Petitioner,

v.

State of South Carolina,

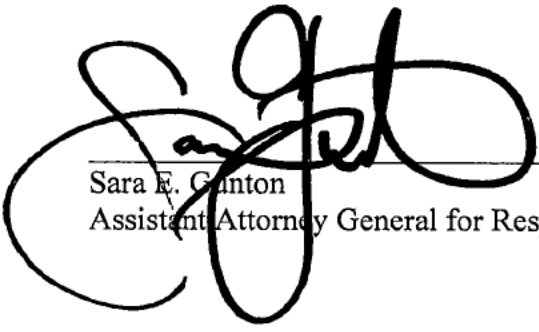
Respondent.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the **Supplemental Appendix** has been served upon the applicant by placing one copy in the United States Mail, addressed to:

**Victor R. Seeger, Esquire**  
**S.C. Commission on Indigent Defense**  
**PO Box 11589**  
**Columbia, SC 29201**

This 23<sup>rd</sup> day of December, 2019.

  
\_\_\_\_\_  
Sara E. Canton  
Assistant Attorney General for Respondent