

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Sep 25 2020

SC Court of Appeals

Appeal from Greenville County

Letitia H. Verdin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JODY MACK CHILDRESS, JR.

APPELLANT

APPELLATE CASE NO. 2020-000386

RECORD ON APPEAL

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Appellate Defender

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ATTORNEY FOR APPELLANT

ATTORNEY FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF GREENVILLE

4 The State,

5 Plaintiff,

6 vs.

Transcript of Record
2017-GS-23-04831

7 Jody Mack Childress, Jr.,

8 Defendant.

9

10

11 February 21, 2020
12 Greenville, South Carolina

13

B E F O R E:

14 The HONORABLE LETITIA H. VERDIN

15

A P P E A R A N C E S

16

17 Ms. Harbin, Probation
18 Teal Johnson, Representing the Defendant

19

20

SHARON G. HARDOON, CSR

21

Official Circuit Court Reporter, II

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1 THE COURT: Okay. So it looks like he's
2 got a sentence of 10 years suspended on five years
3 probation, credit for 503 days. So something like
4 three and a half years hanging over his head.
5 Does that sound about right? No. My math is
6 wrong.

7 MS. HARBIN: Yeah, just a little.

8 THE COURT: My math is off. Eight and a
9 half years hanging over his head. Okay.

10 And I see the nature of the charges, and
11 you all are alleging that he did not attend sex
12 offender counseling, that he -- there was a young
13 child in his house, that he accessed social media
14 with sending and receiving explicit photos and
15 having pornographic material.

16 MS. HARBIN: Yes, Your Honor.

17 THE COURT: And, I guess, his counselor,
18 I believe, says that he does not really -- the
19 defendant doesn't really seem motivated.

20 MS. HARBIN: Correct. And I have a
21 statement that his counselor actually wrote, if
22 you would like to see it.

23 THE COURT: I would.

24 MS. HARBIN: And it's been provided to
25 Miss Johnson as well.

1 THE COURT: Thank you. Okay. Very well.
2 Yes, ma'am.

3 MS. JOHNSON: May it please the Court?
4 Your Honor, first, I guess, I'd like to provide
5 some background on my client. Jody is 23. He has
6 a four-year-old daughter he has not seen since
7 2016. He's from Pickens. He was raised in
8 Greenville. He's a high school graduate. He has
9 no college. He has done landscaping and factory
10 work in his life. His longest job was at
11 Century Plastic for six months.

12 As for special ed, he tells me he was a
13 slow learner, poor test scorer, had ADHD, was on
14 Ritalin. He does have some pretty serious mental
15 health problems, not anything that would rise to
16 competency, but since I've known him, he's been
17 severely depressed with depression and anxiety.

18 I do want to let the Court know, kind of
19 as housekeeping, and I have told Mr. Childress
20 this, that this does not matter, but the victim's
21 mother in this case has been in touch with me
22 about her child giving conflicting statements. I
23 told him that this is not the place to do that. I
24 just wanted to let the Court know that. At
25 Mr. Childress's instance, I've told him that he

1 has got to have this case reopened.

2 Judge, we adamantly dispute these
3 violations as being willful. I had a hard time
4 with this letter from his counselor, and the
5 reason I had such a hard time, I guess, I was
6 debating whether or not to allow it in, but is
7 because of one of the sentences that this
8 so-called counselor writes about my client, and it
9 would be what my client alleged to have -- alleged
10 to have reported to this counselor about his
11 children -- excuse me, about his sister.

12 THE COURT: I'm not going to take that
13 into account.

14 MS. JOHNSON: Well, and I just -- I
15 understand that, and I figured that, Your Honor.
16 But I think that gives context as to why, not only
17 was it financially hard for him to go to this
18 counseling. He had to go to Greenville.

19 THE COURT: I understand.

20 MS. JOHNSON: I think it's clear from
21 this letter that this man is not trying to help my
22 client. He is only trying prosecute my client.
23 My client is trying to be forthcoming about stuff
24 that happened when my client was a child. And
25 this is very hard for me to tell the Court, and I

1 do have my client's permission, my client himself
2 also was a victim of abuse.

3 I think my client definitely wants to get
4 help, and he has not tried to shirk his counseling
5 responsibilities. I just think -- I think the
6 relationship has been irreparably harmed or
7 damaged. I get it that people can't pick and
8 choose the counseling -- or the counselors. But I
9 think it's clear, I know I wouldn't want to be
10 with somebody who is now using my confidential
11 disclosures against me. I would not want to treat
12 with that person.

13 So I ask the Court to take that into
14 consideration. He does want to get this
15 counseling help.

16 Judge, as to -- I do want to let the
17 Court know he went to 12 sessions. They were all
18 in Greenville. He went every week until he
19 didn't. And his mother, who is here, would take
20 him. And if she couldn't take him, it was \$50 for
21 an Uber.

22 I want to let the Court know, as to these
23 pictures, it's my understanding they were all --
24 most of them, I don't want to say all of them, but
25 most of them were unsolicited by my client. They

1 were sent to my client. We are not talking about
2 children, as my understanding, with any of the
3 allegations of porn or social media. But, as to
4 the pictures, they were all adults and they were
5 unsolicited and mostly received by my client. I
6 think there was one or two that my client sent to
7 his fiance. He did not realize that he could not
8 send these kind of pictures to somebody with whom
9 he was in a committed relationship, and I have
10 since told them that that is not acceptable.

11 As to the crib issue with the unattended
12 child, I want to paint my client's living
13 situation. I talked to Agent Harbin yesterday.
14 She let me know -- I did not know this, that my
15 client was living in, like, one of those rental
16 unit sheds that you go buy at Home Depot or
17 Lowe's.

18 And since he got out of that place, he
19 moved in with his aunt, and the aunt is the mother
20 of this child -- excuse me, the grandmother of
21 this child. Her name is April Comet.

22 And, Miss Comet, what would you tell the
23 Court about the your grandchild coming over?

24 MR. CHILDRESS: May I?

25 THE COURT: Yes.

1 MS. COMET: Please understand that I was
2 not aware, because I've not even asked about all
3 this court stuff. Also, it was not planned. My
4 daughter called me at 3:00 in the morning, maybe
5 4:00, can I bring her to you? Yeah. My first
6 grandkid, and I'm not -- I swear to you, I wasn't
7 even thinking.

8 THE COURT: I got you.

9 MS. JOHNSON: It's a situation where he
10 wakes up and there's a child there. He didn't
11 coordinate this.

12 It's my understanding my client hasn't
13 missed any reports. And Miss Harbin can correct
14 me if I'm wrong. He hasn't missed any drug tests.
15 This has been a huge wake-up call to him.

16 Again, we're not talking about any
17 allegations -- or new allegations involving
18 children.

19 I am asking the Court to reinstate him.
20 I know that's a big ask. Or to set, maybe, nine
21 days as a shock, wake-up call for him. He wants
22 to get on with his life, Your Honor. He tells me
23 he's got a job either pressure washing or
24 painting. He does want to do -- excuse me, my
25 mouth is so dry.

1 THE COURT: It's okay. Do you mind
2 getting her a little cup of water?

3 MS. JOHNSON: He does -- he really wants
4 to get his counseling treatment. He wants to get
5 the mental health treatment that he so desperately
6 needs.

7 And, again, I just would point out to the
8 Court, it's my understanding, there's no -- no
9 children were involved in any of the social media.
10 I have told him that he needs to get flip phones
11 and go back TVs with rabbit ears.

12 THE COURT: That would be a good idea.

13 MS. JOHNSON: Would you like to say
14 something?

15 MR. CHILDRESS: Your Honor, if I may
16 speak?

17 THE COURT: Yes, please.

18 MR. CHILDRESS: As Miss Johnson has
19 mentioned before, I am a father. And I do want to
20 go to these counseling sessions because I am in
21 need of mental help. I believe that I can't be a
22 father to my child if I don't complete these
23 sessions. And I would like to do everything
24 possible with probation to help me get to that
25 place to where I can see my child again.

1 If I caused any kind of feelings or hurt
2 toward my probation officer, I do want to
3 apologize. And I want to apologize to you as well
4 for me having to be up here.

5 Thank you, Your Honor.

6 THE COURT: Thank you. I appreciate
7 that. I know she appreciates that, too.

8 Anything lese from the department?

9 MS. HARBIN: Yes, Your Honor. I would
10 like to definitely address some of the violations
11 a little bit more --

12 THE COURT: Sure.

13 MS. HARBIN: -- from the probation side.

14 So when it comes to the home visit where
15 the phone was found, he had a second phone that he
16 was hiding that he was actually sitting on top of.
17 So, you know, he was already deceiving probation,
18 because I can check sex offender's phones per the
19 agreement that they sign before they even are
20 supervised.

21 THE COURT: Right.

22 MS. HARBIN: So, you know, if I ask, let
23 me see your phone, I don't usually think that
24 they're probably sitting on another phone.

25 THE COURT: Right.

1 MS. HARBIN: But he had had this phone
2 for -- I don't know how long. But on this phone,
3 a Snapchat account was found.

4 THE COURT: He was sitting on the phone?

5 MS. HARBIN: Yes, he was sitting on the
6 phone at the home visit.

7 THE COURT: Okay.

8 MS. HARBIN: Trying to hide it --

9 THE COURT: I got you.

10 MS. HARBIN: -- from the agents.

11 The Snapchat account is -- I'm not sure
12 if you're aware of what Snapchat is.

13 THE COURT: I am. I have a
14 sixteen-year-old.

15 MS. HARBIN: Right. So you know that the
16 photos, you can't retrieve what was sent and what
17 was received.

18 And based off of history of what these
19 young children are doing now with these Snapchats,
20 they think that they can send anything they want
21 to, and it can sexually permissive photos and no
22 one will ever know, unless you go subpoena
23 Snapchat, I guess.

24 But I'm not a hundred percent sure that
25 that's where he was sending and receiving, but,

1 you know, he had that and he's not supposed to
2 have it, period.

3 THE COURT: Right.

4 MS. HARBIN: So that's something that I
5 can't go back and say, I know he sent this picture
6 on this day and I have proof. So just him having
7 that account itself --

8 THE COURT: Right.

9 MS. HARBIN: -- is a major violation, and
10 it was on a hidden phone.

11 THE COURT: Right.

12 MS. HARBIN: So that's a double whammy.

13 As for his treatment, if he would have
14 come to me -- which I've been in Pickens since
15 July. I've been with probation since 2017, but in
16 Pickens since July. He never once came to me and
17 said, hey, I want to find another counselor. And
18 I told him Miss Johnson yesterday, if he had come
19 to me and said, I have a very serious problem, I
20 would have done everything that I could to find
21 him somewhere. I have another person on my case
22 load that we did that with. That's not out of our
23 realm. Now, we do have that one provider that we
24 recommend, so that's why he was originally with
25 Keith Oglesby, the Upstate Behavioral Health. He

1 never once did that.

2 THE COURT: Right.

3 MS. HARBIN: So, you know, it's not my
4 job to give him that motivation to come to me and
5 say, I really want treatment. So when I hear him
6 say that in here, it's really hard for me to
7 believe.

8 THE COURT: Right.

9 MS. HARBIN: As for -- also with the
10 treatment, I have a serious problem that -- they
11 go once a week for 52 weeks out of the year, but
12 it's an 18-month program. He attended 11. So
13 that's 11 weeks that he went and never came to me
14 with that issue.

15 THE COURT: Out of how many?

16 MS. HARBIN: Fifty-two weeks in a year.

17 THE COURT: Oh, okay.

18 MS. HARBIN: So he went to 11 out of a
19 year. Technically it's like a 18-month program,
20 so a year and a half. But out of one year, he
21 went to 11. And it's community safety, at that
22 point, when it comes to -- and I understand that,
23 you know, the provider put something in there
24 that -- the provider put something in there that's
25 not admissible in here, but it's community safety

1 that he may or may not try to go do something like
2 that again. So I just have a really big issue,
3 and that's why we haven't come to an agreement on
4 this.

5 THE COURT: I understand.

6 MS. JOHNSON: If I may just respond,
7 Your Honor. I think it's one of those things
8 where once they issue the violation -- I don't
9 know when the violation was issued, but I think
10 it's, kind of -- it was in August. So that's
11 about the time, you know, she came on this case
12 load.

13 I think -- you know, he's not in a
14 position where he feels like she's going to,
15 really, take into consideration -- especially if
16 she's violating him for not going to the
17 counseling.

18 As far as the secret phone, you know, we
19 dispute that it was a secret phone. I think his
20 nothing got -- his mother who is here today, she
21 got him a phone because they live -- his new
22 residence with his aunt, and they live up, I
23 guess, north of here, seven miles up from here.
24 Something about couldn't register the GPS. He's
25 trying to get a job. He's trying to get -- how to

1 -- you know, coordinates for, you know, where to
2 go to get a job.

3 But he tells me that -- you know, again,
4 there's no evidence here that he had any -- as far
5 as the Snapchat and the Facebook that he was ever
6 sending any messages or having any conversations
7 with children. He knows that he can't have that
8 on his phone now. I have told him, in no
9 uncertain terms, that he cannot have that.

10 But I'm asking, again, for one more
11 chance. I don't think he would disappoint you. I
12 think this has been a wake-up call for him. He is
13 very sorry. And, you know, I think he's doing
14 everything he can, Your Honor, to survive. It's a
15 very hard situation and hard life that he has.
16 Obviously, some of it is his own doing, I get
17 that, but he is trying to do what he can, and he's
18 asking the Court for one more chance.

19 THE COURT: All right. Well, I'm going
20 to find that he's in willful violation of his
21 probation. There's no other way to look at it. A
22 phone that probation isn't aware of. The child
23 situation can maybe be explained away. But a
24 phone that probation is not aware of. And 11 -- I
25 thought it may be some shorter time that he had

1 gone those 11 times, 11 times going to counseling
2 out of 52.

3 But I'm going to do it like this: I'm
4 going to give you six years and terminate. Good
5 luck to you.

6 I do find that this statement in here
7 from the counselor is inappropriate, so pass that
8 along to him.

9 (The hearing was concluded.)

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CERTIFICATE OF REPORTER

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I, SHARON G. HARDOON, Official Circuit Court Reporter for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions for Greenville County, South Carolina.

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

March 26, 2020



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, II

WITNESSES

Lorraine Henderson

Greenville County Sheriffs Office

3/1/2017

ARREST WARRANT NUMBER

2017A2310100092

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-23-

LAB

004831

The State of South Carolina

County of Greenville

Jal

COURT OF GENERAL SESSIONS

TERM 2017

THE STATE

vs.

JODY MACK CHILDRESS, JR.

Indictment for

*0385
396*

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

VIOLATION § 16-03-0655(A)(1)

**ENTERED
ACCT** *Jal*

RECEIVED

JUN 21 2017

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That JODY MACK CHILDRESS, JR. did in Greenville County, on or about the 1st day of October, 2016, commit a sexual battery on **Minor** who was less than eleven years of age. This is in violation of §16-03-0655(A)(1)[formerly 16-3-655(1)] of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

BAR # 77787

6-20yrs sor

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE VS.)
Jody Mack Childress Jr)
 AKA: _____)
 Race: _____ Sex: M Age: 21)
 DOB: _____ SS#: _____)
 Address: Jasper Dr)
 City, State, Zip: Greenville, SC 29605)
 DL#: _____ SID#: _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS2304831
 A/W#: 2017A2310100092
 Date of Offense: 10/1/2016
 S.C. Code § : 16-03-0655(A)(1)
 CDR Code #: 0385

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Criminal Sexual Conduct, 2nd Degree W/Minor (age 11-14)

CONVICTED OF or PLEADS

in violation of § 16-03-0655(B) of the S.C. Code of Laws, bearing CDR Code # 0396
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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

ATTEST: Joseph B. Sacchetti 69114 Jody Mack Childress Jr W. [Signature] 77931
 Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of 503 days/months/years and/or payment 715
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDoc.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. 503 DAYS

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
 Payment Terms: _____ Obtain GED
 Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____
 Recipient: _____ May serve W/E beginning _____
 Substance Abuse Counseling

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Paul B. Wiseman
 Court Reporter: Henson
 SCCA/217 (04/2018)

Other: - WAIVE SUPERVISION FEE FOR
PLACED ON SEX REGISTRY
NO VICTIM CONTACT,
SEX OFFENDER COUNSELING.
 Appointed PD or appointed other counsel,
 Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
 Presiding Judge _____
 Judge Code: 2158
 Sentence Date: 7/17/18

prob begins today

STATE OF SOUTH CAROLINA

County of Greenville

STATE VS. JODY MACK CHILDRESS JR.

AKA: Jody Mack Childress Jr.

Race: white Sex: male

DOB: [REDACTED]

SSN: [REDACTED]

SID# 02280319

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

2017 - GS - 23 - 04831

Probation C/W#s: W-39-19-0240

Name of Original Offense: CSC w/ minor 2nd degree

Original A/W#: 2017A2310100092

Date of Original Offense: 10-1-2016

Conviction S.C. Code §: 16-03-0655(B)

Conviction CDR Code #: 0 / 3 / 9 / 6

Original Sentence: 10 years ss 5 yrs prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 7/17/18 in the Court of General Sessions of Greenville 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 8/30/19.

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)

7, 9, 10 / sex offender conditions.

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 6 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 electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- Financial Obligations: Order satisfies:
 - Department fees (arrearage)
 - Fines and other fees (arrearage / balance)
 - Restitution (and 20%) (arrearage / balance)
- Civil judgment:
 - Department fees
 - Fines and other fees
 - Restitution (and 20%)

Additional Conditions ordered by the Court:

Revoke 6 years and terminate supervision. Allow time served to satisfy all remaining arrears.

- The defendant is given credit for pre-arrest hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- The defendant is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).
- The defendant has served 503 days/months/years of prior revocations and/or initial SCDC time.
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 21 day of Feb, 2020 at Pickens, SC

Residing Judge: [Signature] Hon. Verdine 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 21 day of Feb, 2020 at _____ SC

[Signature]
Pickens City

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 April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

RECEIVED
Sep 25 2020
SC Court of Appeals

s/ Joanna K. Delany
Joanna K. Delany
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 25th day of September, 2020.