

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
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COUNTY OF DARLINGTON	)	
	)	
	)	
	)	2012-CP-16-814
Timothy Michael Farris,	)	
	)	
Applicant,	)	APPLICANT'S AFFIDAVIT
	)	
	)	IN SUPPORT OF
v.	)	
	)	MOTION FOR SUMMARY
State of South Carolina,	)	
	)	
Respondent.	)	JUDGMENT
	)	
	)	
	)	

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1. I am Timothy Michael Farris, the applicant. Before I was arrested I was busy nearly every night rehearsing our band for church concerts. My friend, Steven, and I had been leading the church praise band together for a while. In the spring of 2008 we decided to put together the best local talent we could for church concerts. I was supposed to play rhythm guitar, to compliment another lead guitarist, but after seeing that I was more aggressive about writing lead lines, the other guitarist stopped coming to practice. Nick was a drummer in the praise band, with influences varying all the way from country to metal. Steven molded himself after David Crowder, the Famous Christian Musician, The bassist molded himself after the famous Victor Wooten, and I followed in the footsteps of John Petrucci. This was a very odd combination, but we sounded amazing together.

2. We practiced at the church on the night of July 31, 2008. I did not get to bed until after one, and over-slept the next morning. I was twenty years of age, probably the reason I was startled and scared when I woke up the morning of August 1<sup>st</sup>, 2008 to find

three Union county sheriffs' deputies standing in the doorway of my bedroom.

3. My immediate thought was something had happened to my grandparents, with whom I live. They told me to get out of bed and escorted me to the living room. I only had a pair of boxers on. I asked for a moment to put some pants on. I was not given this opportunity. Upon entering the living room I saw five uniformed deputies and one man in casual clothing, a man I later found out was Hartsville, South Carolina Detective John Specht. Each of the deputies stood with arms crossed. I was intimidated by them and I was embarrassed, standing in my boxers. One of the deputies was a female.

4. I asked if something had happened to my grandparents or another family member. The officers told me to sit down. I sat on the couch. They presented me with the affidavit for a search warrant. I skimmed it and saw the words "chat room" and "undercover." I asked, "What is all of this?" Detective Specht replied. "It's called criminal solicitation of a minor. It's a proactive law that allows cops to go after sexual predators." I asked if it was like that show on TV, going after pedophiles. He nodded. I then told him I had Yahoo instant messenger on my computer but never spoke to any 13 year olds. He asked if I ever used my grandmother's computer, as well. I told him I did from time to time, but I never chatted with ANYONE under-aged and rarely used it to begin with.

5. I asked the officers why they thought I had done this. They said my Yahoo account was used in a South Carolina Yahoo chat room to solicit sex from an undercover police officer who posed as a thirteen-years-old girl. I told the officers I used that account to communicate on Yahoo messenger (a different application from chat rooms), but I had little knowledge or experience utilizing Yahoo chat rooms.

6. When they said nothing, I asked, "Are you arresting me?" One of the

deputies said, "There is a great possibility." I asked again if I could put on clothes, and was told to wait. They began searching my home. They searched through my drawers, closet, and under my bed. My computer, monitor, keyboard, mouse, digital camera, web camera, music CDs, a video cassette, and letters from a former girl friend were confiscated.

7. They also confiscated my grandmother's computer, mouse, keyboard and monitor. When I saw this, I asked if I could phone my grandmother since those were her possessions. Finally, they said I could put on clothes but to come back into the living room to phone my grandmother. I put on pants and a shirt but did not put on shoes. I did not expect to be arrested.

8. My grandmother arrived home roughly ten minutes later to find me sitting at our kitchen table surrounded by police officers. Just as confused as I was, she asked the officers what was going on. They told her the same things they had told me.

9. She told the officers she did not understand why her personal belongings were being confiscated. They said it was standard procedure. I sat at the kitchen table feeling utterly powerless. I did not understand why this was happening. I knew I had not done anything wrong.

10. After confiscating all these items, the officers told me I had to go with them to the Union County Sheriff's Office. I put on shoes and was led out of my home to a blue SUV. I was not handcuffed. I was not read my Miranda Rights, not then, not ever. From T.V., I thought it was required, if ever you were arrested.

11. We arrived at the Union County Sheriff's office, but I don't remember much about that time, nor who took me out of the SUV. Not sure what was going to happen or why I was there, I kept hoping they would realize this was a mistake.

12. I was told they needed to speak in another room and was asked to sit and wait in an open room. I recall seeing Detective Specht carrying a compact disc with a label on it that read, "Farris Photos." Today, I think those were the photos that were taken of my house. Several minutes later, an officer came to handcuff me and I was led down a hallway to a window. Behind the window was a woman at a desk. I was being arrested.

13. I must have been in a daze because the next thing I recall is being taken out of a police car in the parking deck of the Union County courthouse. I was shackled and led into the building. We took an elevator up, and then I shuffled in shackles down a long hallway to a courtroom. I was told I was facing extradition to South Carolina police.

14. I remember little except that each time I asked a police officer if I could get a lawyer, I was told I had to wait until Monday. I told the officer that I felt that I needed a lawyer now. He said, "You can get a lawyer, but you'll sit in a jail cell until Monday, at least. And you'll most likely lose the extradition hearing, and then you'll spend even more time in a jail cell in South Carolina. If you sign this paper though, you'll probably be home tomorrow." He handed me a piece of paper and said, "Sign here." Still in shackles, I signed. I had no idea it was an extradition waiver.

15. Once that was done I was taken by Detective Specht to a red, unmarked car. He said we were going to Darlington County Detention Center. The drive took forty-five minutes. Since then, I've been back and forth to Darlington several times. The eighty mile drive never takes less than an hour and a half from Union County, North Carolina.

16. Detective Specht was speeding the entire drive. That made me nervous as I was sitting in the front seat in handcuffs. I am not a person who speeds. I was fearful to be handcuffed in a car going eighty to ninety miles per hour, driven by a man who was

busy talking on his cellular phone. Before closing the phone, Detective Specht said, "Honey, I'll deal with this later."

17. Upon arriving at the Darlington County Detention Center I again asked to be assigned a lawyer. Detective Specht said, "Get in the that cell right there," and pointed to a holding cell behind me. Not wanting to make things worse, I entered the holding cell and found a small concrete bench and sat down. It was freezing in the holding cell. The concrete floor radiated the cold. Using my shoes as a pillow I tried to get some sleep. I was exhausted mentally and physically. Nearly five hours later, I was taken out of the holding cell and had my fingerprints taken and a mug shot photographed. Thankfully, I was allowed to wear my street clothes. I think the reason is I was being held in a holding cell with fifteen or twenty other people.

18. I had not had breakfast or lunch and when dinner was served in the holding cell, it looked like slop. I ate nothing.

19. Another ten hours passed and an officer came for me. I was led in handcuffs to a small room. My grandmother was there, and she was the one who told me it was a bail hearing. In handcuffs, I sat before a television screen to view the judge. I don't remember much of anything. I kept thinking, *Why don't I have a lawyer? None of this makes sense. How did they know I was guilty without asking for my side of the story?* I had not been given a chance to speak nor ask questions, and now I was sitting before a judge.

20. I was released on \$5 thousand bail, and I left with my grandparents. On the ride home, I asked my grandfather for a cigarette. He handed his pack and lighter to me without a word. After a while my grandfather said he was glad it had stopped raining. My grandmother said she never wanted to go to Darlington again. For the rest of the ride, no

one spoke. The trip home took roughly an hour and forty-five minutes.

21. Later, my grandmother told me that someone from the Hartsville police department had phoned about the bail hearing, told her to go to the bail bond office across from Darlington Detention Center and bring five hundred dollars. When she and my grandfather went into the first bail bond office, they were told they did not handle people arrested by Hartsville. They did not know what to do. They went into Darlington Detention Center to get more information. A man who heard them tell this story walked up and said he could arrange the bail. Then they asked directions to Hartsville. An officer told them the hearing would be held right there, in Darlington. He must have felt sorry for them, realizing they had taken that long ride in rain, and said he would break the rules and allow one of my grandparents to sit with me. My grandmother went into the room, not expecting to see me in handcuffs.

22. My grandfather, my grandmother, and I wanted to forget what happened and go back to our normal lives. That night I went straight to my church band practice, as I had done so many evenings before. I loved playing music with others in my church. We did this for services on Sundays and Wednesdays. Music and my church were important to my life.

23. I struggled to live my normal life but I felt different, as if I had been struck by lightning. I began to suffer migraine headaches, and it was more than physical. I could not shake the fear whenever I saw a police officer or a police car. If I could be arrested once for no reason, I could be arrested again for no reason. I tried to tell myself this was crazy thinking, but some of my friends said the same thing to me—they were worried. Would they be arrested for associating with me? What if the police thought we were a gang?

24. After the Sunday show my band mates went their separate ways. I tried to

cope with what had happened. I found myself afraid to negotiate contracts with other musicians, thinking they would magically know I had been arrested for something as disgusting as Criminal Solicitation of a minor. I began to shy away from music altogether, aside from sitting down in my room with my guitar.

25. My focus was primarily finding employment. Due to the economy, I was laid off several months prior to the arrest. After the arrest I continued to look for employment in land surveying, since I had experience doing this. It was important to get a job. My grandparents had to come up with bail money they could not afford, and my grandmother no longer had a computer. They needed my help with expenses.

26. But I kept worrying when I put in a job application. Would the arrest show up on a background check? I did not understand what happened or why, and I knew no lawyer who could explain it or help me. These worries made it more difficult to focus on my qualifications and to be as confident as I should have been.

## **2009**

27. Then I had a phone call from a woman in South Carolina. She introduced herself as Tonya Copeland Little. She said she had been appointed as my lawyer and would be defending my case. When she called me by my first name, "Timothy," I told her that I have been called Michael for most of my life. I told her of my fears and concerns, and asked why I hadn't been given a chance to show my innocence or defend myself. I was always told that a person was innocent until proven guilty.

28. She laughed and said that she wished things worked that way. Mrs. Little told me I needed to make certain I was present for all the court-appointed hearings, even though I wouldn't be standing before a judge. I told Mrs. Little that I appreciated her help

and wanted to do whatever was necessary to prove my innocence and resolve the situation.

29. Mrs. Little said I should plead because Attorney General McMaster, who was heading the task force, was adamant about these cases, and nobody had ever beaten him on a case of the nature by which I was charged. She said he took these cases personally.

30. Months passed and I heard nothing more from her nor from any of the officers involved in my arrest. Then, in November 2009, more than a year later, I had another phone call from Mrs. Little. Again she called me "Timothy," and again I asked her to call me by my preferred name.

31. Mrs. Little was calling to explain that the attorney general wanted to move forward on my case and would be in Darlington to hear my plea. I was hit with an overwhelming sense of fear. But I knew I was innocent and hoped that I would have the opportunity to speak for that innocence to someone who would listen.

32. That same November, I appeared before the court and plead "not guilty" in front of the judge. The judge then asked if I was sure I knew what I was doing. I responded confidently, "Yes, your honor, I am." I thought it extremely odd for the judge to say that. I found it odd, as well, that Mrs. Little, my lawyer, had brought her mother along for my hearing and introduced her to the judge. The judge invited her to sit in the empty jury box, so that she had a good view. I wondered if there was something special about my case.

## **2010**

33. Again, months passed. It was the summer of 2010 and, having not heard anything from Mrs. Little, I called the public defender's office. The receptionist informed me that Mrs. Little no longer worked for the county and, at the time, I did not have an assigned

attorney.

34. I felt relieved, thinking they had realized my innocence and the charges were to be dropped. Now I thought I could pick up the pieces of my life. Although I continued to seek employment, I refocused on my music and composition. I purchased a new computer to continue recording my music. I was twenty-one, just beginning my adult life.

35. I found work in late 2010 with an electric company, installing systems for large commercial projects like hospitals. I made friends with another employee who was into music, mostly hard rock, hip-hop, and intellectual (not street) rap. We became such good friends that I decided to assemble a band with him. We gathered old and new contacts and met twice a week at "Bat Cave," a separate room behind the car port at my house. The band worked on a set list and recorded at each practice, to pick out ideas we liked and would work on the next time. When we got attention from the local music scene, I thought it was time to put myself back out there. I was beginning to feel normal again.

36. Then, in February 2011, Mr. Swilley called. My band mates were aware I was arrested back in 2008 but, like me, they thought the charges had been dropped. Mr. Swilley's phone call put a stop to everything. Once the plea happened and I was placed on probation, it became impossible to gather and record our ideas. The members were increasingly unable to attend practice, due to their apprehension of my probation officers. The band fell apart less than a month after the plea.

### **Swilley and The Plea**

37. Mr. Swilley said he had been assigned as my attorney and the attorney general was still intent on moving forward with my case. My heart sank. I had spent the three years since my arrest doing my best to move forward. Here I was, two steps back.

38. I asked Mr. Swilley what he could tell me about my case, what sort of evidence they had against me. He said he was “extremely familiar” with the details of my case. I felt a sense of relief. But it was short-lived. When I asked Mr. Swilley how he planned to defend my innocence, it was apparent he did not believe I was innocent. He said that the attorney general, Henry McMaster, “does not take a case unless it’s a complete slam-dunk for him.” Mr. Swilley said there was no way out for me.

39. Hoping to convince him to defend me, I asked him if it would be possible to meet at his office. I told him I had not seen one shred of evidence and had no clue why I was in this situation. He agreed.

40. That Friday, accompanied by close friends who came along for moral support, we made the trip to the Darlington Public Defender’s office. I asked Mr. Swilley for a copy of all of the evidence associated with my case. He gave me with a small manila folder labeled “Warrants.” There were no warrants but there were Detective Specht’s incident reports (not all of them, as I later learned) and a rather unofficial looking copy of the Yahoo chat logs.

41. I asked Mr. Swilley if there was any motion that could be filed to help defend my case. An attorney from New York had told me about something called a Clayton Motion. He said it was used in situations such as mine where there was little-to-no evidence and one wished to have the charges dismissed in the interest of justice. I asked Mr. Swilley if we could file a Clayton Motion.

42. He said no such motion existed in the state of South Carolina, and there was no motion whatsoever that could be filed. He reiterated that no one had ever beaten Attorney General Henry McMaster, whose task force had a 100 percent conviction rate. He

said the best thing I could do was plead guilty, hope for probation, and keep my head down. If I took my chances with a trial, I could end up with a thirty year jail sentence.

43. My plea hearing was scheduled for March 9<sup>th</sup>, 2011. I arrived early. Mr. Swilley told me I must answer yes to any question the judge asked, or my plea would not be accepted. However, if asked if I had been coerced I must say no.

44. Trusting in the knowledge of my lawyer, I did exactly as he said. I stood before Judge Burch and perjured myself. I answered yes to every question asked of me. When I was asked if this was a knowing and voluntary plea, I answered yes. When I was asked if the plea counsel was adequate, I answered yes. When I was asked if I was coerced in any way, I said no. I remember standing before the judge and feeling that no matter what I said I was going to end up in jail.

45. My grandfather got up and begged the judge not to send me to jail. The judge then said he would not give me "active jail time." He sentenced me to five years suspended sentenced upon completion of four years probation. This meant if I violated probation I would serve five years jail time.

46. The judge then explained that I had the right to appeal my plea within ten days. After this, I was led into a small office and presented with paperwork to sign. It was at this point that I felt grateful. By staying out of prison, I could try to find a way to fix the situation.

47. After completing paperwork I was sent to the probation office a block away from the courthouse. I sat there for several hours. They administered a drug test, a DNA swab, and I was given more paperwork to sign. After spending more time sitting, I asked a female probation officer if there was anything else they needed from me or could I return

home. The female probation officer then screamed at me, "YOU'RE A SEX OFFENDER," and walked away, sighing heavily.

48. I sat there, in complete disbelief that someone would speak to a complete stranger with such unkindness. But I remained quiet. I knew that despite how inappropriate her response was to my simple question, I needed to stay calm and avoid antagonizing an already difficult situation.

49. When I asked if I could go home, another probation officer told me I was required to stay in Darlington until they could complete the transfer of my probation paperwork to my home state of North Carolina. I was forced to stay in a decrepit motel, at my own expense, for three days. During this time I again tried to contact Mr. Swilley. I wanted him to initiate an appeal or tell me how to do it myself. I was unable to reach him.

50. When I was finally permitted to return home, I was told to go directly to the probation office in Monroe, North Carolina. Upon arrival I was met by Allen Hughes, who informed me that he was the intake officer and would be explaining to me all the details of my probation. He said that I would be required to maintain a curfew of 6 p.m., and had to be in my home by that time every evening as of that very day. By that time I was too intimidated to ask how I was supposed to hold a job, if I had to be in my home by six p.m.

51. Hughes continued with a list of conditions. I was not permitted to use a computer for any reason, not even to facilitate employment or further my education. I would be subject to random drug testing as well as random searches of my room and the common areas of my home. I must pay \$40 a month to the probation office as a charge for their supervision of me. I could not be within 1000 feet of any place where anyone under the age of eighteen gathered. I could not contact anyone under the age of eighteen

by any means, not even members of my family who were underage. I would be required to secure employment, but could not work anywhere in which another employee was under the age of eighteen. I could not work within a 1000 feet of any establishment that employed minors or anywhere in which those under the age of eighteen congregated. I would also be required to attend a weekly group therapy session specifically for sex offenders. The group sessions also required a weekly fee of \$35. Failure to pay all fees and abide by all the terms of my probation would result in immediate arrest.

52. I was heartbroken. Because of the terms of my probation I would be unable to see nor speak to my thirteen-years-old half-brother, with whom I was extremely close. I would be unable to attend church, as there were many young people in my church community. I hadn't the slightest idea how I would be able to pay those fees, when finding employment was extremely difficult.

53. The thought of attending weekly therapy sessions surrounded by people who physically harmed others made my stomach churn. I was immediately afraid of what I would hear in those therapy sessions.

54. As Mr. Hughes spoke, I kept reminding myself that this was better than prison. At least this way I could fight my conviction and clear my name. And I expected a professional therapist would readily see my innocence and would be know I was not threat to anyone.

55. I made it home just in time at 5:50 that evening, walked in the door and sat down to tell my grandmother about all the stipulations related to my probation. My grandmother became very upset. That made my heart heavy. My probation also meant that no one in my home could use a computer or have a smart phone, and everyone in the

family would be subject to having strangers enter our home and invade their personal space.

56. My grandmother felt as though everyone was being punished. She was so upset that she went to her room to lie down. Almost immediately, Mr. Hughes pulled into the driveway to ensure I had complied with my new curfew. I greeted Mr. Hughes at the door. He entered my home and proceeded to my grandparents' bed room, to speak with all of us.

57. My grandparents sat on their bed, with me sitting at the foot of the bed. Mr. Hughes, standing, explained to us that I would be checked at least twice a week to ensure that I was home by 6 PM every night. He repeated the list of probation conditions, and left.

58. Several days later a man in a Ford Taurus pulled into my driveway at 6:01 pm. He said his name was Kevin Whitfield, and he was my curfew officer. He said there would be surprise raids at my home, and they could occur at any reasonable time.

59. I was not permitted to have alcohol in my home and any prescriptions of mine must be cleared with the probation officer. He informed me that Tara Richardson would be my supervising officer. I had yet to meet her, but he explained that I would be required to appear in person at her probation office the first Sunday of each month. At that time they would administer a drug test and complete a progress report. He also noted that I would be allowed time to return home late on Wednesday evenings, after I attended the mandatory group therapy sessions as required. The therapy sessions began at 6:30 PM and ended at 7:45 PM. This would be my life from now on.

60. Fifteen days after the plea hearing, when I phoned the Darlington County Public Defenders' office, I finally reached Mr. Swilley. I had tried phoning him every day,

sometimes several times a day, and left messages. He never returned any.

61. I told him I wanted to appeal the plea. He explained that the ten day period had passed and there was nothing I could do. I told him that I had tried without success to get in touch with him over the past two weeks, and was told over and over again that he would return my call. He said he forgot to return my calls. He did not apologize.

62. I asked Mr. Swilley if there was any more evidence I had not been shown. Based on what he had given me, it did not seem there was enough information for a conviction. Mr. Swilley said that there was indeed more evidence, but he had shown me all that was relevant. I told him I should have been shown everything related to my case. It was my life that was affected. I again asked to be given the rest of the evidence. Mr. Swilley agreed to send it, and quickly hung up.

63. Several weeks later a slim package arrived in my mailbox. The contents were the arrest warrants, the search warrant, extradition waiver, a printed copy of my Yahoo profile, a log from Yahoo with a list of IP addresses and the Yahoo search warrant. At this point I had very little knowledge of what all this paperwork meant. I had never even seen an arrest warrant. I read through everything and immediately found inconsistencies. I asked friends to help do research for my case and find names of lawyers. I could not do this, since I was not permitted to use a computer.

64. I continued searching for jobs—anything I could possibly get. Probation told me I was required to apply for fifteen jobs a week. I tried to apply for more than fifteen. I soon realized that finding employment under the terms of my probation would be as big a burden as pleading guilty in court. Because of the curfew, I tried to get minimum-wage kitchen work at a restaurant, but conversations with potential employers always seemed

to end the same: “Thank you for your time but we cannot take a risk on hiring a convicted sex offender.” This made me feel worthless. How could I help my grandparents pay bills? How could I pay the required fees? How could I afford to feed myself, if I could not find stable employment? I wanted badly to find a job and contribute to my family. To keep me out of prison, my grandparents paid the fees.

65. In an effort to ensure that I did everything possible to comply with probation, I went out of my way to leave a store if a child was present. I would immediately leave a food establishment if a group of children entered the building. I attended the weekly group therapy sessions, which became increasingly difficult. I could not participate because I had no stories to tell. I was not a sex offender. I did not physically harm anyone. I did not try to solicit sex from anyone.

### **Sex Offender Group Therapy**

66. When asked questions by the therapist, I responded that I had not done what I was accused of. The therapist was angry each time I refused to admit to being a sex offender. Everyone else in the room spoke about their crimes—in excruciating detail. Hearing these men talk about raping women and molesting young children made me sick. I spent a good deal of the therapy time praying to God to help me make it through each session, and to give me the strength not to let these horrible stories weigh down on my heart.

67. I was surprised that the therapist did not give me any tests. I was certain that if she did, she would find out I telling the truth about being innocent. Several times I tried to tell her I was innocent, but she did not believe me. I told her I couldn’t understand how the interactions of these sessions applied to me, as I could not sit there and tell stories of

rape or molestation. I had not done those things.

68. Anytime I spoke it was met with hostility and accusations. I was told over and over that I must have done it, otherwise I wouldn't be there. I was told I was a liar, and because I was a liar that made me just as bad as every other convicted man in the room.

69. Someone told the therapist that the curfew officer had come into the bed room to meet with my grandparents and me. The therapist said, "That is diagnostic, that you would meet with him in your grandparents' bed room." I had no idea what she meant, only that she was angry.

70. Group therapy sessions became increasingly harmful. I was sickened by what I had to listen to, and the therapist seemed to have one emotion: hostility. Except when she applauded someone for describing details of his crime. Nothing I said was valid to her, and oftentimes probation officers sat in on group sessions and took notes. During those sessions, I sat in fear of the probation officer. The therapist had said, repeatedly, that I could be violated for refusing to admit I did what I was accused of. If she asked me, again, to confess and I insisted I was innocent, and the probation officer took note of this, would it doom me to a fate worse than what I was living?

71. As time progressed, the terms of my probation began to take a toll on me in every way. I began to feel as if I were in a prison. I was watchful, constantly on edge, worried that at any time the law would come after me. Every evening I waited for the curfew officer to arrive. I began to battle persistent insomnia. I worried that if I slept I would wake up to another raid.

72. In an attempt to make myself feel more secure, I tacked up blankets over my bedroom window. I hoped this would help me find a way to sleep. Instead I continued to

feel like I was just waiting for the next officer to knock on my door. Every day I worried, What if a police officer stopped me while I was walking on the street? Would they claim an automatic probation violation? I began to feel like even the slightest thing could cause a probation violation and send me to prison.

73. One morning my grandmother announced that our family was coming to visit, adults and their children. To comply with the rules of probation, I locked myself in a separate part of our home, as far as possible from where my family would gather. My uncle, with whom I was very close, sat in the living room. I could not visit with him at all and I knew he was battling stage four colon cancer. My uncle passed away the following week.

74. Trying to deal with my grief over the loss, I requested permission from my probation officer to attend my uncle's funeral. I was denied permission.

75. One day a friend brought her computer to my house. Friends often used to do this, setting up their computers in the separate part of the house I called, "Bat Cave," where I recorded music. Although I had told everyone I was not allowed to have a computer, this friend forgot, plugged in her computer to an outlet in that room, and did not tell me. And then probation came to check my curfew.

76. On past curfew checks the officer and I chatted about me teaching him to play guitar. This day I told him I had a song I wanted to show him. He escorted me out to the separate part of the house. When I opened the door, there sat a computer. It was like opening the door to a seven foot roaring monster. I panicked. I told him it was not mine, and immediately called my friend to come, get her computer.

She explained to the officer that I had no knowledge of the computer on my property, and said she would remove it immediately. She pleaded with him not to report

me for probation violation. Of course, he did.

77. During this time I met Leah, a beautiful young woman. In September of 2011, several weeks after the computer incident, Leah's sister was visiting when a surprise raid occurred. This was due to Mr. Whitfield finding my friend's computer on the premises. The probation officer, Tara Richardson, along with Alan Hughes and Kevin Whitfield, searched my room. They tore through my belongings as if they were garbage, and knocked Leah's and my things off the dresser top. Then they frisked Leah and her sister, and made them lift their shirts. I felt humiliated, for them as well as for myself. The probation officers found nothing of consequence and left, but the effect of that raid makes me shudder each time I think of it, to this day. That was when I fully realized that anyone who got close to me would be subject to the consequences of my probation.

78. A few months later I was summoned to a preliminary hearing in Columbia, South Carolina—about the computer in my home. I was told I did not have the right to have an attorney appointed to represent me. The friend whose computer it was agreed to come to explain what actually happened. She would help me prove it was a non-willful violation.

79. At the hearing, Agent Kirk Dudley of the South Carolina interstate compact office read the charges against me. I asked what the bar was to establish a non-willful violation. A woman probation officer conducted the hearing. She said a non-willful violation was a violation that is out of your control, something you had no knowledge of, and if you had knowledge you would have prevented it from happening.

80. I told her I could meet that bar. My computer-owner friend testified, and I testified. The preliminary hearing officer decided there was probable cause I had violated probation. The case was removed to the Court of General sessions in Darlington.

81. Convinced I would be going to jail, my paranoia went into overdrive. I started begging all my friends for whatever help they could give: call lawyers, try to find someone who could somehow put me in a position to fight back. Their efforts were in vain.

82. On December 17<sup>th</sup>, 2011, I went before Judge Baxley. To my astonishment, he found my explanation satisfactory and the violation non-willful. That gave me an enormous uplift—and hope. If I could just figure out how to use what Mr. Swilley had sent me, I could finally clear my name and end this.

83. Throughout all the months I tried to find an attorney who would help at no charge, only one was interested, a New York attorney. He said there had to be more evidence than what I possessed. I did not know how to get what was missing. He offered to come to North Carolina. He arrived in June, 2012, traveling on his own dime, and accompanied me to the probation office, to get permission to drive to Dillon, South Carolina. It would be the first time I visited the office of the chief of Fourth Circuit Public Defender office. It was an added forty-five miles beyond Darlington, and I was gloomy. I wanted to be hopeful, but I did not expect to find much more in the file.

84. We met with A.C. Michael Stephens, the Chief Public Defender for the Fourth Circuit. He demanded the attorney's bar card. Then he told us it would take an hour or two to put together the entire file. We waited in the lobby. When he returned with the packet of pages, both the attorney and I insisted that A.C. Michael Stevens sign and state on the itemized list that this was everything in my file, that nothing had been left out. He did so, and we left.

85. Three days later the New York attorney came with me to the office of the court-ordered therapist who conducted the group sessions. He asked for copies of all my

records (session notes, psychological evaluations, etc.). She said she never did any testing and did not keep any records. If I wanted psychological testing, she could refer me to the psychologist who trained her. She smiled as she told me the cost: twelve hundred dollars.

86. A week after he arrived, I drove the lawyer to the airport. He had done all he could, and it was more than I could do for myself. When I returned home I learned my great-grandfather was in the hospital, in South Carolina. Probation would not give me permission to visit him. I guess that was the tipping point. I had newly discovered evidence but did not know how to use it, and now the fear of losing another family member without being able to say good-bye.

87. That was the last thing I remember before waking up in the hospital, one week later. I awoke to a tube in my bladder, an IV in my wrist, and constricting cloths on my legs to keep the blood from clotting. I thought I had been in a car crash. I assumed this because Leah, now my fiancée, was not there. I asked the doctor what happened to me. He answered my question with one of his own.

"Why did you do it?"

"Why did I do what?" I responded. He said I had taken over one hundred Xanax (my grandmother's prescription) in an apparent suicide attempt. I was floored, confused, scared. I had no memory of being suicidal, I did not feel suicidal. I had shaved my face before taking the attorney back to the airport. I realized, then, laying in the hospital bed, that a week must have passed because I had facial hair again.

88. When Leah came to visit, she told me I had not been myself for the entire week. I was hostile, depressed, and increasingly erratic. It ended when my fiancée found me convulsing in bed, and called the police.

89. To this day I have no memory of any of it. I spoke with the hospital's psychologist. He determined I was not a risk to myself or others, and I was released the next day. I do not know why Tara Richardson, the probation officer in North Carolina, did not violate me for this.

90. After this incident, I went to the therapist I was forced to see, and took Leah along because I had no memory of the events of that entire week. The therapist lashed out at me, called me a drug addict, claimed Leah had given me the pills, insinuated she had given me other illegal drugs. I struggled to keep down my anger as I tried to explain that I had no memory of anything and I was not suicidal. I told her she was supposed to help me, not yell at me. She did not respond.

91. In May 2012, at a workshop for felons who apply for jobs, I took notes, filled out an application for employment, and learned my GED was not valid. I had gone to an online high school after dropping out of high school in 2005, after my grandfather was laid off and the family was in danger of losing our home. I got a job doing land surveying.

92. When I realized my online GED was worthless, I immediately enrolled in the GED program at the local community college. Within one week, I had my GED and graduated with honors. It felt grand, to finally accomplish something. I then took the college placement test, thinking to go to college. I've always been interested in physics.

93. I could not attend college, according to Tara Richardson, the North Carolina probation officer, due to computers on campus. I asked how I could go about getting an exception. She told me to contact Mr. Dudley from the South Carolina interstate compact.

94. I did so immediately. He told me that the ultimate decision would be made by my therapist. I knew what this meant. I was right. She told Mr. Dudley there was no way

she would say I would not re-offend. I was not permitted to attend.

95. I feel into a deep funk. How was I supposed to do anything worthwhile? My life was meaningless. As the winter of 2012 approached, my health declined. I suffered migraines on a daily basis, had numerous colds and several bouts of the flu, twice in 2012 and again in 2013. To go to the emergency room after 6 pm, I had to risk being violated. Every minute I sat in the hospital, I was filled with dread that a probation officer would discover me there. It was a short drive from the probation office to the hospital.

96. I continued to look for work, going into many stores to ask if they were hiring for anything, stock room, mopping floors, anything. I went to the state employment security commission to seek help from a man who works directly with R.S.O.s (Registered Sex Offenders). Through him I finally found a job. I had to get permission from probation to work nights at a factory, from 6 pm to 6am., six days a week.

97. I had panic attacks when I heard other employees talk about probation (most were felons). Migraines became so severe I could not risk driving. Due to my health, I missed four days of work in three months, and was fired. I was severely disappointed in myself for losing the job. But I did not know how to deal with the situation.

98. One morning a few months later Leah woke me, screaming that my grandmother was cold and not moving. I jumped out of bed. She was in her room and unresponsive, with pills scattered everywhere and a suicide note saying she could not take the stress of what our lives had become. I immediately called 911 and proceeded to do CPR, which I knew from when I was a volunteer with the local Search And Rescue Squad. I managed to get her heart beating again and the ambulance took her to the hospital. This had taken such a toll on our whole family. How could I fix this?

99. My grandmother survived, but the damage was done. Shortly after I began missing the therapy groups due to migraines and multiple doctor visits for stress-related illnesses, colds, even pneumonia, which again had me hospitalized. During these illnesses I tried to attend the therapy group, and was sent home when it was obvious I was sick.

100. The last time I attended group therapy, I was terminated. The woman in charge had told us she was going hunting with her husband and that another therapist would lead the group. When he asked a newcomer why he was convicted, he told about meeting a woman at a bar who was carded, when she ordered a drink. Her driver license showed she was twenty-four, although this man as well as the bartender thought she looked younger. Later, he slept with her. It turned out she was sixteen and used a phony driver license. He was convicted for this.

101. I argued that she should be held accountable, not him. And asked why she was not charged for using a fraudulent government-issued identification. The man who led the group became angry that I raised these issues. He terminated me and told me to leave. When I attempted to attend the next session, the woman in charge refused to allow me in. She said I was terminated due to not being complaint. I had missed too many sessions.

102. Being terminated counted as probation violation. Now I faced five years in prison. I knew this was a non-willful violation, but would the court agree? I was not sure I had the strength to fight for myself any longer. Suddenly, all those phone calls to lawyers turned up useful information: I could file for post-conviction relief (PCR). Yes, I could—now that I had the entire file. I filled out the paperwork, citing ineffective assistance of counsel and newly discovered evidence. This gave me a little hope.

103. I had another preliminary hearing for the violation of being terminated from

therapy. This hearing was in the interstate compact office in Columbia. I prepared for months, and brought the hospital records. I was told the hearing was just a formality at this point, conducted by a probation officer. It would be decided in the court of general session, due to the nature of the case.

104. Tara Richardson, the North Carolina probation officer, told me she could have violated me for not admitting guilt, and she put that in the violation report she sent to South Carolina.

105. On December 15, 2012, three days before the hearing, I received a phone call from Chad Beard, my South Carolina probation officer. He was moving the hearing to the 20<sup>th</sup> (originally scheduled for the 18<sup>th</sup>) and wanted to meet with me first. When I went to the Darlington county probation office, I told Mr. Beard I had filed a PCR. I told him if he was going to try to send me to prison for five years for something I did not do, he should look at the evidence. I summarized what was in the package I brought.

He said he did not need to see the evidence; he was not going to send an innocent man to prison. He made a copy of the PCR application I had filed.

I asked him, What could we do?

He said he could do only one thing—not object when my new public defender, Rick Jones, asked the court to terminate my probation.

I was elated. I could imagine what life would be like if I did not have to be searched anymore; did not have curfew raids; did not have to go to court-ordered therapy; did not have to be yelled at for being innocent and not backing down. I cried in his office.

106. Part of the ordeal would end, once I showed the court that South Carolina probation did not object to the motion to terminate probation. Unfortunately, the court

hearing would not be until the 23<sup>rd</sup> of January. I could hardly wait.

107. The morning of January 23<sup>rd</sup> the air conditioning was broken in the fifth floor courtroom. It was humid and hot. Case after case was called. With each case, I grew more and more nervous. I could not help worrying about being sentenced to five years. Then my name was called.

108. My heart was pounding as Judge Baxley went through the usual courtroom routine—you know why you are here today; you are facing a revocation of all or part of your probation. This was the same judge as at the previous probation hearing. He said he remembered me, and that the last time I got off by a slim margin.

109. My lawyer, Rick Jones, told the judge I had paperwork from the doctors' visits and the hospital. The judge seemed more interested in the fact that I would not admit guilt. I was not allowed to speak at that point.

110. I knew that Rick Jones was going to ask that I be terminated from probation and that Mr. Beard would not object. After they did as expected, I was asked to leave the room, for them to deliberate. This scared me. The judge had said nothing other than this could be called a violation, and a willful one. I was almost certain I was going to jail.

11. I waited in the hall. An officer escorted me back into the hearing room. The judge told me he was removing me from probation. He said it was intended to remove the incentive to continue with my PCR. His voice was kind as he explained that only two percent of PCRs that are filed to reverse a guilty plea are successful. He did not want me to continue with mine—for my own good.

I smiled and told him I was more than confident in that matter. The judge released us from the hearing. I walked outside to greet my wife for the first time off-probation.

Probation had been such a burden that I was sure things would begin to be better. I was wrong. I was still a convicted felon, and a Registered Sex Offender.