

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF)

STATE OF SOUTH CAROLINA) # - - - -
)

vs.)

), **MOTION FOR ADMISSION**
) **OF OUT-OF-COURT STATEMENT**
) **OF CHILD PURSUANT TO**
DEFENDANT) **S.C. CODE SECTION 17-23-175**

PLEASE TAKE NOTICE that the undersigned Attorney for the State will move before this Honorable Court at a date to be determined pursuant to S.C. Code Section 17-23-175 for admission of out-of-court statement(s) made by the victim/witness in the above-captioned case, to wit: _____, date of birth _____, S.C. Code Section 17-23-175 was enacted as part of the Sex Offender Accountability and Protection of Minors Act of 2006.

Statement of Law

An out-of-court statement by a child under the age of twelve is admissible in a General Sessions Court proceeding upon satisfaction of the provisions set forth in S.C. Code Section 17-23-175 and a finding by the Court that the statement(s) provides "particularized guarantees of trustworthiness." In the present case, the victim/witness was under the age of twelve years at the time of the making of said statement(s) or functioned cognitively, adaptively, or developmentally under the age of twelve at the time of the making of the statement(s). Furthermore, the defendant is currently charged with an offense which would require registry pursuant to the provisions of Article 7, Chapter 3, Title 23 (South Carolina sex offender registry).

Evidence offered by the State pursuant to this section includes recorded statements made by the child victim/witness to the following persons in relation to the above-captioned case:

The State offers the following facts in support of the admission of the aforementioned out-of-court statement(s):

(1) the statement was given in response to questioning conducted during an investigative interview of the child, pursuant to S.C. Code Section 17-23-175(A)(1);

(2) an audio and visual recording of the statement has been preserved by electronic means, pursuant to S.C. Code Section 17-23-175(A)(2);

(3) The child is expected to testify at trial and is subject to cross-examination on the elements of the offense and the making of the out-of-court statement(s), pursuant to S.C. Code Section 17-23-175(A)(3).

The State contends that the totality of the circumstances surrounding the making of the statement(s) provides particularized guarantees of trustworthiness. The State requests an *in-camera* review by the Court for consideration of the following factors in support of the admission of said evidence pursuant to S.C. Code Section 17-23-175 (B):

- (1) whether the statement was elicited by leading questions;
- (2) whether the interviewer has been trained in conducting investigative interviews of children;
- (3) whether the statement contains a detailed account of the offense;
- (4) whether the statement has internal coherence; and
- (5) sworn testimony of any participant which may be determined as necessary by the Court.

For the foregoing reasons, the State moves to introduce evidence and/or testimony of the out-of-court-statement(s) made by the child concerning details of the alleged criminal offense(s) in this case. Furthermore, the State contends that upon consideration of the totality of the circumstances, that said statement(s) possess particularized guarantees of trustworthiness sufficient for admissibility within the provisions of S.C. Code Section 17-23-175.

Respectfully submitted,

Circuit Solicitor's Office

This ____ day of _____, 200 ____