

**STATE OF SOUTH CAROLINA**

**In the Court of Appeals**

**Appeal from Spartanburg County  
Honorable J. Derham Cole, Circuit Court Judge**

**RECEIVED**

**AUG 08 2022**

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**Appellate Case No. 2019-001296**  
\_\_\_\_\_

**SC Court of Appeals**

**Carl Ray Fraley, Jr.,**

**Appellant,**

**v.**

**State of South Carolina,**

**Respondent.**

\_\_\_\_\_  
**Petition for Rehearing**  
\_\_\_\_\_

**Richard W. Vieth, Esq. (SC Bar #5711)  
HENDERSON, BRANDT & VIETH, P.A.  
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BUTLER, MEANS, EVINS & BROWNE, P.A.  
207 Magnolia Street  
Spartanburg, SC 29306  
(864) 590-2215**

This Petition for Rehearing by the Appellant Carl Ray Fraley, Jr. is made in accordance with South Carolina Appellate Court Rule 221 and is in accordance with Rule 240 of the Appellate Court Rules by his undersigned Counsel.

The primary and controlling argument of the Appellant Carl Ray Fraley, Jr., in this appeal made to the South Carolina Court of Appeals is that his Constitutional Rights were violated because the lower court's order requiring him to be registered as a sex offender was controlled by an error of law and a factual conclusion that was without evidentiary support and the order must be reversed as a matter of Federal and State Constitutional and Statutory Law.

The Appellant makes this Petition for Rehearing on the Grounds that the Court of Appeals, in its Order issued July 20, 2022, overlooked, and misapprehended and improperly decided the Primary issue in this case as argued by the Appellant. The Appellant's position and Argument is that his Rights under the United States Constitution, the South Carolina Constitution, and South Carolina Law were violated because the State of South Carolina did not provide appropriate evidence which demonstrated that "good cause" existed for ordering him to be registered as a sex offender due to "a risk to reoffend sexually" as contemplated by S.C. Code Ann. Section 23-3-430(D) (2007).

The State of South Carolina argued in this matter that it was not required to demonstrate to the Court by appropriate medical testimony within a reasonable degree of medical certainty that good cause existed for registration of the Appellant. The testimony of Doctor Lee in this matter on the primary issue did not meet the Standard for Testimony by Experts under South Carolina Law. See generally: South Carolina Rules of Evidence, Rule 702; Holmes v. Haynsworth, Sinkler, Boyd, P.A., 408 S.C. 620, 760 S.E. 2d 399 (2014); Graves v. CAS Medical

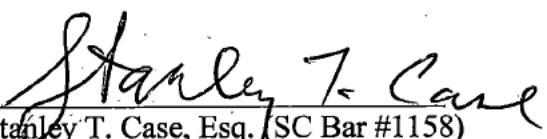
Systems, Inc., 401 S.C. 63, 735 S.E. 2d 650 (2012); State v. White, 382 S.C. 265, 676 S.E. 2d 684.


The lower court sought to obtain expert testimony on the issue whether good cause existed for ordering the defendant to be included in the sex offender register. Dr. Lee did not give a professional opinion regarding whether a risk to reoffend sexually existed.

The Appellant in this case denied that he committed a sexual offense or any offense with regard to his Granddaughter. This is clear in his testimony in the record. The only medical evidence in this case was to the effect that there was no risk to “reoffend sexually” by the Appellant as contemplated by the statute.

The United States Constitution and South Carolina Constitution and Law allow the Appellant to enter an “Alford Plea” even if he is not guilty of any offense, which is the Constitutional Right of the Appellant and is what occurred in this matter.

Accordingly, the Court should grant the Appellant’s Petition for Rehearing and issue its Order Reversing the lower Court’s order and remanding the case with the instruction that the Appellant should not be registered as a sex offender under South Carolina law.

  
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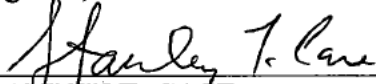
State of South Carolina,

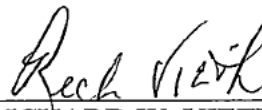
Respondent.

PROOF OF SERVICE

We certify that we have served the Petition for Rehearing on the State of South Carolina, Respondent by depositing a copy of it in the United States Mail, postage prepared, on the 3<sup>rd</sup> day of August 2022, addressed to its attorneys of record, Senior Assistant Attorney General, Mark R. Farthing and Attorney General, Alan Wilson, South Carolina Attorney General's Office, P.O. Box 11549, Columbia, South Carolina 29211 and have also emailed a copy to the Attorneys for the Respondent.

August 3, 2022

  
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August 3, 2022

**FILING BY EMAIL:** [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

The Honorable Jenny Abbott Kitchings  
Clerk of the South Carolina Court of Appeals  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

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SC Court of Appeals

**RE: State vs. Carl Ray Fraley, Jr.**  
**Appellate Case No.: 2019-001296**

Dear Ms. Kitchings:

Following up on our conversations with Jacklyn Orr, we are enclosing for filing the Appellant Carl Ray Fraley's Petition for Rehearing in the above referenced matter.

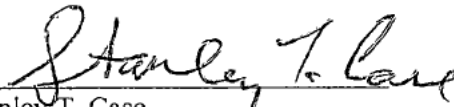
We are making this filing in accordance with Rule 221 and Rule 240 of the S.C. Appellant Court Rules. We are enclosing the following by email:

1. An electronic copy of the Petition for Rehearing;
2. An electronic copy of a Certificate of Service or Affidavit of Service on the attorneys for the State.

Very truly yours,



Richard W. Vieth  
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Enclosures

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Mark R. Farthing, Esq. ([mfarthing@scag.gov](mailto:mfarthing@scag.gov))

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SC Court of Appeals

**TO:** The Hon. Jenny Abbott Kitchings  
SC Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

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