

**RECEIVED**

**Sep 01 2022**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM AIKEN COUNTY  
Court Of Common Pleas

Clifton Newman, Circuit Court Judge

---

Appellate Case No. 2020-001381

---

James W. Brewer.....Appellant,

v.

Mark Keel, Director South Carolina Law  
Enforcement Division (SLED) and  
The State of South Carolina.....Respondents.

---

**AGREEMENT TO DISMISS APPEAL**

---

Appellant James W. Brewer, jointly with Respondents Mark Keel, Director South Carolina Law Enforcement Division (SLED) and the State of South Carolina, hereby agree pursuant to Rule 260(b), SCACR, to dismiss the above captioned appeal.

Appellant James Brewer was convicted of unlawful sexual contact in violation of Colorado Code § 18-3-404(1)(a) on August 15, 2001. He subsequently moved to Aiken, South Carolina where he was required to register as a sex offender pursuant to the South Carolina Sex Offender Registry Act (“SORA”). Mr. Brewer then received a Colorado Order to Discontinue Sex Offender Registration in Colorado.

On or about September 7, 2018, Appellant filed this “Petition for Declaratory Judgment” against Defendants Chief Keel, SLED, and the State of South Carolina, seeking to be removed from the South Carolina Sex Offender Registry in light of the Colorado Order to Discontinue Sex

Offender Registration in Colorado. The Circuit Court granted the Respondents motion for summary judgment finding:

In sum, Colorado's Order removing Plaintiff from the Colorado Sex Offender Registry does not compel South Carolina to remove him from its registry. Plaintiff has failed to demonstrate how he qualifies for removal under the existing statutory scheme, which is "offense-dependent" not "registration-dependent." Since his sex offense conviction persists in Colorado, regardless of whether he is required to register for it there, he must continue to register for it in South Carolina. Lastly, the Colorado Order is not entitled to Full Faith and Credit since it says nothing whatsoever about South Carolina's Sex Offender Registry and cannot substitute Colorado's statutes regarding removal from its registry for South Carolina's similar statutes regarding removal from its.

Final Order pages 8 and 9 in 2018-CP-02-02098.

On May 23, 2022, the Governor signed into law amendments to the statutes relating to the South Carolina Sex Offender Registry. 2022 South Carolina Laws Act 221 (H. 4075). Those amendments apply retroactively to any South Carolina citizen currently required to register as a sex offender under the previous statutory provisions.<sup>1</sup> The legislative amendments in Act 221 added S.C. Code Ann. §23-3-432, which provides a removal process for sex offenders that are "eligible to be removed under the law of the jurisdiction where the conviction occurred." S.C. Code Ann. §23-3-432(A)(1)(c). In light of this newly enacted avenue for removal, the parties agree this appeal should be dismissed and ask the court to enter an order of dismissal.

Respectfully submitted,

s/ Harley L. Kirkland  
HARLEY L. KIRKLAND  
Assistant Deputy Attorney General  
S.C. Bar No. 100382  
(803) 734-3680  
Post Office Box 11549  
Columbia, South Carolina 29211  
ATTORNEY FOR RESPONDENTS

---

<sup>1</sup>See 2022 South Carolina Laws Act 221 (H. 4075), Section 8 ("This act is retroactive and shall apply to any resident of this State who currently is required to register as a sex offender pursuant to the provisions of Article 7, Chapter 3, Title 23, and who meets the requirements set forth in the act.")

s/ Charles T. Brooks (Signed with consent)

Charles T. Brooks

Post Office Box 3512

309 Broad Street

Sumter, South Carolina 29151

(803) 418-5708

ATTORNEY FOR APPELLANT

SEPTEMBER 1, 2022

COLUMBIA, SOUTH CAROLINA