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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
Honorable Perry H. Gravely, Circuit Court Judge

Case No: 2023-00575
Trial Court Case No.: 1986-GS-23-5233

The State of South Carolina.....Respondent
v.
Kenneth Wayne Signor, Jr.,Appellant

RECORD ON APPEAL

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A-20073

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
State of South Carolina,)
)
vs.)
)
Kenneth Wayne Signor, Sr.,)
)
)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
Case No. 1986-GS-23-5233

**ORDER DENYING
DEFENDANT'S MOTION FOR
ORDER OF REMOVAL**

This matter came before me for a hearing on Friday, March 10, 2023, on Defendant's motion for an order that he no longer had to register as a sex offender in the State of South Carolina. M. Kyle Thompson, Esq., of the Thirteenth Judicial Circuit Solicitor's Office appeared for the State, and Charles T. Brooks, III, Esq., appeared for Defendant. The Court Reporter was April Herron.

After reviewing the motion and the briefs submitted by the parties and hearing arguments of counsel, I am denying Defendant's motion.

BACKGROUND

Defendant was charged in 1986 with one count of Criminal Sexual Conduct with a Minor (2nd degree) and one count of Lewd Act on a Minor. Defendant pled guilty to these charges on March 27, 1987, and the Court sentenced Defendant to 15 years imprisonment on the Criminal Sexual Conduct charge and 10 years on the Lewd Act charge.

On or about April 1, 1994, Defendant was released from incarceration by the South Carolina Department of Corrections. That same year, the South Carolina Legislature passed legislation creating the Registry, which took effect July 1, 1994. That act, and subsequent amendments, require persons convicted of or pleading guilty to certain offenses to register with the South Carolina State Law Enforcement Division ("SLED") for the purpose of monitoring them

and protecting the community from persons who have committed those class of offenses. South Carolina courts have held that such a requirement does not violate the ex post facto clause, even for persons convicted and released prior to the creation of the Registry. See State v. Walls, 348 S.C. 26, 558 S.E.2d 524 (2002).

On January 19, 2001, Defendant registered as a sex offender for the first time based on his two 1987 guilty pleas. In 2022, the South Carolina General Assembly, following the South Carolina Supreme Court decision in Powell v. Keel, 433 S.C. 457, 860 S.E.2d 344 (2021), reh'g denied (Aug. 4, 2021), enacted S.C. Code Ann. § 23-3-462, which created a procedure by which persons could apply to SLED to be removed from the Registry if they met certain conditions. S.C. Code Ann. § 23-3-462, in relevant part, allows an offender to apply to be removed from the Registry "after having been registered for at least twenty-five years, if the offender was convicted as an adult, and was required to register as a Tier II offender." S.C. Code Ann. § 23-3-462(A)(1)(b). Defendant, having pled guilty to Criminal Sexual Conduct with a Minor (2nd degree), is classified as a Tier II offender under S.C. Code Ann. § 23-3-430(C)(2)(a).

Defendant applied to SLED to be removed from the Registry in 2022. At that time, he had only been on the Registry for 21 years. On August 22, 2022, SLED issued a letter denying Defendant's application to be removed from the Registry. SLED cited to the fact that Defendant had not met the twenty five-year requirement set forth in § 23-3-462(A)(1)(b).

On October 17, 2022, Defendant filed the instant Motion pursuant to S.C. Code Ann. § 23-3-463, which was also enacted in 2022. That statute allows offenders to file a motion with the general sessions court for an order to be removed from the Registry if they meet certain criteria, one of which is that the offender is a Tier II offender who application to SLED under § 23-3-462 has been denied by SLED. See S.C. Code Ann. § 23-3-463(A)(1). In the Motion, Defendant

alleges that he should be removed from the Registry because more than twenty-five years have elapsed since his conviction and that he is not likely to commit any other criminal offenses of a sexual nature.

LAW

Defendant alleges that he is entitled to an order to be removed from the registry because more than twenty-five years have passed since he was released from incarceration and because he would have registered sooner had SLED notified him that he was required to do so. However, Defendant's alleged grounds for removal from the Registry cannot overcome the simple, basic truth that he is not eligible for removal under the plain language of the statute.

South Carolina's Sex Offender Registry statutes, S.C. Code Ann. § 23-3-400 et seq., provide the only lawful mechanisms and avenues by which an individual who is properly placed on the Registry can be removed. Otherwise, a person who is required to register must do so for life. See S.C. Code Ann. § 23-3-460(A).

Defendant seeks to be removed from the Registry pursuant to the aforementioned S.C. Code Ann. §§ 23-3-462 and -463. S.C. Code Ann. § 23-3-462 deals with applying for termination of the reporting requirements directly with SLED, while S.C. Code Ann. §§ 23-3-463 deals with moving before the court to be removed from the registry. Both statutes, passed by the legislature in 2022 in the wake of Powell v. Keel, 433 S.C. 457, 860 S.E.2d 344 (2021), reh'g denied (Aug. 4, 2021), utilize the same timeframe eligibility an offender must meet in order to be considered for removal as set forth in S.C. Code Ann. § 23-3-462(A)(1) and (A)(2).

Defendant is a Tier II offender based upon his guilty plea to Criminal Sexual Conduct with a Minor (2nd degree). The minimum amount of time he must register as a sex offender before he can apply to be removed is twenty-five years. See S.C. Code Ann. § 23-3-462(A)(1)(b). As

previously set forth, he registered for the first time on January 19, 2001. Twenty-five years from that date is January 19, 2026, or almost three years from now.

Defendant's motion argues that the statutory timeframe for removal approved by the legislature just last year does not apply to him. Instead, he argues that his timeframe should be calculated based upon when he was convicted and when he was released from incarceration. However, Defendant lacks any statutory or legal support for his position.

The statute setting forth the timeframe for when an offender may apply or move for removal from the Registry is unambiguously worded. The South Carolina Supreme Court has specifically held that

[i]f a statute's language is plain, unambiguous, and conveys a clear meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." Buist v. Huggins, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006) (internal quotes and citation omitted). Instead, the words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation. Id. Moreover, "it is beyond this Court's power to effect a change in the statutes enacted by the Legislature." State v. Corey D., 339 S.C. 107, 120, 529 S.E.2d 20, 27 (2000); see also Keyserling v. Beasley, 322 S.C. 83, 86, 470 S.E.2d 100, 101 (1996) (this Court does "not sit as a superlegislature to second guess the wisdom or folly of decisions of the General Assembly.")

Key Corporate Capital, Inc. v. Cnty. of Beaufort, 373 S.C. 55, 59, 644 S.E.2d 675, 677 (2007).

Defendant argues that in equity he should be eligible to apply or move to be removed from the Registry, since he legally is not able to do so. It is well-known that "equity follows the law." See Regions Bank v. Wingard Properties, Inc., 394 S.C. 241, 254-55, 715 S.E.2d 348, 355 (Ct. App. 2011) citing Smith v. Barr, 375 S.C. 157, 164, 650 S.E.2d 486, 490 (Ct. App. 2007); Morgan v. S.C. Budget & Control Bd., 377 S.C. 313, 319-20, 659 S.E.2d 263, 267 (Ct. App. 2008). Moreover, the South Carolina Supreme Court has held that a "court's equitable powers must yield

in the face of an unambiguously worded statute." Santee Cooper Resort, Inc. v. S.C. Pub. Serv. Comm'n, 298 S.C. 179, 185, 379 S.E.2d 119, 123 (1989).

In enacting S.C. Code Ann. §§ 23-3-462 and -463, the legislature could have chosen to utilize a scheme such as that set forth in S.C. Code Ann. § 23-3-540(H), which allows an offender to move after ten years to no longer be subject to electronic monitoring. The legislature also could have chosen to connect the timeframe for applying to come off the Registry to an individual's date of conviction or date of release from incarceration. It chose not to do so, instead enacting the timeframes currently set forth.

The timeframe for when an individual may apply or move to be removed from the Registry is purely a matter of legislative prerogative, and there is no judicial discretion over this duration without violating the separation of powers mandated by the South Carolina Constitution. See S.C. Const. art. I, § 8 ("In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other."). Even as it was determining that individuals should have an opportunity to seek judicial review to be removed from the Registry, the South Carolina Supreme Court deferred to the Legislature to determine how best to accomplish that.

We recognize the development of a judicial review process is a matter best left to the General Assembly. See Moseley v. Welch, 209 S.C. 19, 26-27, 39 S.E.2d 133, 137 (1946) ("The supreme legislative power of the State is vested in the General Assembly."); see also State v. Bani, 97 Hawai'i 285, 36 P.3d 1255, 1268 (2001) ("[T]he difficult and sensitive task of reaching an accommodation between the State's substantial interest in requiring sex offender registration and notification, on the one hand, and an offender's legitimate interest in ensuring against erroneous deprivation of his or her liberty interest, on the other, is best left, in the first instance, to the legislature."); Doe v. State, 167 N.H. 382, 111 A.3d 1077, 1101 (2015) (noting the specifics of a judicial review process for sex offenders requires "line-drawing" which is "a task for the legislature"). To be sure, the General Assembly has ably established judicial review in the sex offender context before, and such

procedures do not impede the legitimate goals of the legislation. See S.C. Code Ann. § 23-3-540(H) (2007 & Supp. 2020) (outlining the process by which a person may be released from SORA's satellite monitoring requirements); *id.* §§ 44-48-110 to -130 (2018) (providing a petition process for sexually violent predators to be released from commitment). Therefore, we are confident in the General Assembly's ability to fulfill our request to fashion the particulars of the hearing process. Nevertheless, we require the hearings at which sex offenders may demonstrate they no longer pose a risk sufficient to justify continued registration be conducted with reasonable promptness and meet standards of fundamental fairness

Powell v. Keel, 433 S.C. 457, 467-68, 860 S.E.2d 344, 349 (2021), reh'g denied (Aug. 4, 2021).

Defendant further alleges that since S.C. Code Ann. § 23-3-440, which requires the State to notify an individual prior to their release from custody or supervision that the person must register, is silent as to the notification of persons released from custody prior to the creation of the Registry, he is being harmed by the State's failure to require him to register until 2001. Defendant states that he would have registered earlier had he been so notified. This argument is without evidentiary support. Furthermore, and more importantly, for the Court to consider Defendant's argument, the Court would have to read something into a statute that is plain, unambiguous, and conveys a clear meaning. The Court cannot and will not do that.

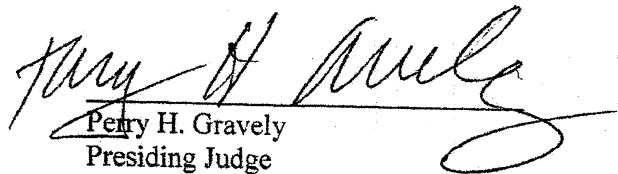
THEREFORE,

IT IS ORDERED that Defendant's Motion for Order of Removal is **denied**.

IT IS FURTHER ORDERED that Defendant shall continue to comply with the requirements of the South Carolina Sex Offender Registry as set forth in S.C. Code Ann. §§ 23-3-400 *et seq.*

IT IS SO ORDERED.

March 20, 2023
Greenville, South Carolina


Perry H. Gravely
Presiding Judge

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
The State of South Carolina,)
)
Petitioner,)
)
VS.)
)
Kenneth Wayne Signor, Sr.,)
)
Respondent.)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

Case No.: 1986-GS-23-5233

MOTION FOR ORDER
OF REMOVAL

NOW COMES the Defendant in this matter, by and through his counsel, who moves before this Court for an Order for Removal from the State of South Carolina Sex Offender Registry. This motion for Order is based on, the following:

1. That the Defendant is a citizen and resident of the County of Sumter, State of South Carolina, having been so for more than one (1) year prior to the filing of this Motion.
2. That the State of South Carolina, a sovereign State and body politic, enacts its legislation through its State Legislature (the South Carolina General Assembly and Senate) and the Governor.
3. This Honorable Court has jurisdiction over the parties to, and subject matter of, the present action based on South Carolina Code §23-3-463(A)(2).
4. The Defendant in this matter was convicted in the State of South Carolina of sex offense(s) in 1987 in Greenville County.
5. The Defendant was sentenced to a term of incarceration of fifteen (15) years for the charge of CSC-2nd and five (5) years for the charge of Lewd Act, with those sentenced to be served concurrently with the South Carolina Department of Corrections. The Petitioner was released from incarceration on April 1, 1994 and

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Paul Wickensmeyer, CDD, SCL, SC

prior to the enactment of the Sex Offender Registry in the State of South Carolina.

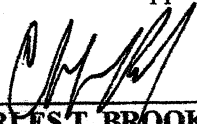
6. In 2003, a period of sixteen (16) years after the conviction of the Defendant and a period of nine (9) years after the release from incarceration of the Defendant, and after the Defendant had relocated to Sumter County, the Defendant was then notified that he was required to begin to Register as a Sex Offender in accordance with "Megan's Law" (which was enacted subsequent to the release of the Defendant from the South Carolina Department of Corrections)
7. That the State of South Carolina Sex Offender Registry classifies the Defendant as a Tier II offender.
8. That the Defendant, since his release, has not been arrested or convicted of any criminal offenses of any nature.
9. That the Defendant has received multiple evaluations from mental health professionals indicating that the Defendant poses little to no threat of recidivism.
10. That the Defendant believes he is entitled to relief of and from the Court for removal from the South Carolina Sex Offender Registry based on the foregoing and the authority given to the Court by South Carolina Code §23-3-463(A)(2).
11. That the purpose of the Sex Offender Registry is to protect the public from those sex offenders who may re-offend and to aid Law Enforcement in solving sex crimes.
12. That the Defendant is informed and believes the facts before this Court do not support a finding that the Defendant is or ever was a predator or poses a risk to the public.
13. That the Defendant is informed and believes that the oversight of the South Carolina Law Enforcement Division to properly notify the Defendant of his duty to register should not inhibit the Defendant from the relief sought from the Court.

14. That the Defendant asserts that his offense, conviction, sentence and release from incarceration all occurred prior to the South Carolina Sex Offender Registry being in existence.
15. That the Defendant asserts that since the Registry was not in existence at the time of his release, he was not and could not have been informed of his duty to register.
16. That the Defendant, immediately after being informed by law enforcement in 2003, began to register with the State as appropriate.
17. That the Defendant asserts that in the nine (9) years of time between his release from the South Carolina Department of Corrections and being informed of his requirement to register as a sex offender should be credited to the Defendant in this matter, as "self-registering", since the purpose of the Registry is to monitor persons who may have a propensity to commit similar illegal sex offenses.
18. That since the Defendant has committed no crime or offense in the aforementioned period of time when the Defendant was not registered with the South Carolina Sex Offender Registry the Defendant should be properly credited with that time and should be released from Registry requirements as a Tier II Offender and more than twenty-five (25) years has elapsed since the Defendant's release from incarceration.
19. That Defendant is informed and believes that he is entitled to an Order of this Court directing Defendant to remove his name from the South Carolina Sex Offender Registry immediately.

WHEREFORE, the Defendant prays this Court for an Order:

1. Granting the Defendant the relief sought in the Motion herein; or
2. Granting the Defendant a hearing on the Motion; and

3. For any such other and further relief as may be deemed appropriate by this Court.



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Dated: October 8, 2022



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PSYCHOSEXUAL RISK ASSESSMENT

Name: Signor, Kenneth Wayne
Date of Birth: 6/17/1954 (age 67)
Date of Report: 7/29/21
Evaluator: Rozanna Tross, Psy.D.

IDENTIFYING INFORMATION

Mr. Kenneth Wayne Signor is a 67-year-old, self-employed male living in Sumter, SC. He is listed on the National Sex Offender Registry Public Website and the South Carolina Sex Offender Registry for convictions of Lewd Act on a Minor and Criminal Sexual Conduct with a Minor Second Degree he received in 1986.

REASON FOR EVALUATION

On 7/19/21 Mr. Charles Brooks, attorney for Mr. Signor, contacted Palmer Counseling & Consulting and asked if we would conduct a psychosexual risk assessment of Mr. Signor to assess his risk for sexual recidivism and whether that level of risk necessitates his continued placement on the sex offender registry. This report is respectfully submitted to answer those questions.

NOTIFICATION

The nature and purpose of the evaluation were explained to Mr. Signor at the beginning of the interview. He was advised he had been asked to participate in a psychosexual risk assessment that would include an interview with him, a review of collateral information, as well as interviews with collateral sources. Additionally, risk assessment measures would be completed for the evaluation. He was advised information gleaned from the interview and/or collateral sources could be used in the report and/or communicated to the Court. He was advised any statements he made in the context of this evaluation were not confidential and could also be made part of the report and/or become part of courtroom testimony. Mr. Signor stated he understood the information provided, indicated he did not have any questions related to the information, and agreed to participate in the interview.

SOURCES OF INFORMATION

Information for this report was gathered from a review of the following sources as well as a clinical interview with Mr. Signor on 7/26/21.

- Telephone interview with two of Mr. Signor's friends on 7/27/21 for approximately 30 minutes and 10 minutes respectively.

- Palmer Counseling & Consulting Adult Intake Form dated 7/19/21.
- Consultation with Mr. Signor's attorney.
- South Carolina Law Enforcement Division Sex Offender Registry.
- National Sex Offender Registry Public Website.
- Sumter County Third Judicial Circuit Public Index.
- County of Greenville Arrest Warrants, Affidavits, Indictments, and Sentencing Sheets.
- Affidavit of Thomas V. Martin, M.D. dated 1/13/15.
- County of Sumter Court of Common Pleas Civil Action documents from 2010 & 2015.
- Letter from Karen Zimmerman of Sumter Therapy Center dated 10/3/00.

BRIEF RELEVANT HISTORY

FAMILY HISTORY

Mr. Signor was born in Detroit, Michigan but raised in Key West, Florida. He stated he is the sixth of seven children born to his parent's marital union but feels he was a "mistake" and "unliked" by his father. He described his father as a harsh disciplinarian and someone who possessed bigoted views making Mr. Signor feel he was unable to share his thoughts and feelings with him, especially those related to his sexuality. He described his mother as "one of my best friends" and spoke highly of her talents and abilities. Mr. Signor indicated he was aware of his father's infidelity and told his mother of the behavior to "get rid" of his father.

Mr. Signor's parents are both deceased as well as four of his older siblings. He stated he has two remaining brothers, one of whom he has daily contact with and visits with regularly. He reported this younger brother has been one of his "best friends" and has been a support to him since he was released from incarceration.

ACADEMIC AND VOCATIONAL HISTORY

Mr. Signor stated he graduated high school without problems or concerns. He reported his academic performance was above that of his peers causing him to "skip" the 10th grade and graduate "early." He denied failing a grade, receiving special education services, or being a disciplinary problem in school. He further denied difficulty developing or maintaining relationships with peers. He indicated he was active throughout his schooling, involving himself in a variety of sports.

After graduating high school (age 17), Mr. Signor stated he joined the military. He reported serving "three tours in Vietnam" and was a "ranger" in the United States Army. He stated he was honorably discharged in 1975. Mr. Signor joined the Police Department in 1976 and remained a police officer until his incarceration in 1986, which resulted in his discharge from the department. Aside from this, Mr. Signor denied ever being fired from a job or receiving disciplinary action. He also denied difficulty with peers or colleagues.

In addition to working, Mr. Signor indicated he simultaneously attended the University of Georgia beginning in 1975, graduating in 1978 with a Bachelor of Arts degree in Public Administration followed by a Master of Arts degree of the same in 1980.

RELATIONSHIP AND SEXUAL HISTORY

Mr. Signor stated he began learning and experimenting with sex around the age of 12. He described his first sexual encounter at the age of 12 when a 16-year-old peer "talked me into" performing oral sex on him. Mr. Signor stated they continued to engage in sexual acts at times, progressing from oral sex to anal intercourse. From there he stated he engaged in oral sex "at times" with same-aged peers, then had brief sexual encounters with adult males while in the military but denied any relationships with males until after his release from incarceration.

Mr. Signor reported two brief relationships with females prior to his marriage, though denied they were sexual. He stated he ended the relationships as "I knew it wasn't me" but had not disclosed his sexuality to anyone. In 1974 (age 20) Mr. Signor stated he began dating his wife and felt "pressured" from his family to marry her. He stated his wife had a two-year-old son (who later became one of his victims) from a prior relationship when they married in 1975, who he adopted as his own a year later. Mr. Signor reported he and his wife decided to adopt additional children a few years into their marriage as "I couldn't have children" due to "low sperm count." He reported three additional boys "lived with us" for several years, though they only adopted one of them. One of these boys became Mr. Signor's second victim.

Mr. Signor stated his relationship with his wife began to sour after a few years as they began to drift apart due to "focusing on our jobs" and had financial difficulties which caused stress and led to distancing. He reported his fellow law enforcement officers advised him his wife was having an affair in 1981, and while he observed her in the act of being unfaithful, denied he ever confronted her. Mr. Signor stated his wife filed for divorce after he received charges against their boys. He denied having contact with her or their children since that time.

Mr. Signor denied a sexual attraction to children. He denied sexual compulsions or addictions and denied paraphilic interests or behaviors. He denied regular pornography use and denied viewing images related to deviant themes. He stated his offending behaviors are the only time he has engaged in problematic sexual behaviors and denied masturbating to fantasies about those behaviors during or since the time of his offenses. He further denied having fantasies or urges to offend prior to the incident with his sons.

MEDICAL, SUBSTANCE, AND MENTAL HEALTH HISTORY

Mr. Signor denied a history of medical problems or concerns. He stated he currently has high blood pressure but that this is managed effectively with medication.

Mr. Signor denied a history of illegal substance use or abuse, to include prescription medications but reported daily use of anabolic steroids between 1980 and 1986 when he was part of a body building group with his fellow police officers. He stated he had a noticeable increase in sex drive during this time, but otherwise denied known side effects from his use. Mr. Signor denied problematic alcohol consumption, describing his use as "sparingly." Mr. Signor was evaluated in 2000 by Ms. Karen M. Zimmerman of Sumter Therapy Center in relation to obtaining his pilot's license. That evaluation noted he has "not, nor is he now addicted to alcohol, prescription or nonprescription drugs or narcotics, nor has he endeavored to be tantalized by illicit drugs." Mr. Signor was evaluated again in 2015 in relation to a petition to be removed from the Sex Offender Registry. That evaluation, conducted by Thomas V. Martin, M.D. concluded Mr. Signor "has no history of addictive substance abuse or dependence."

Mr. Signor denied a history of mental health concerns or treatment aside from participating in sex offender treatment while incarcerated with SCDC. Mr. Signor's 2000 evaluation by Ms. Karen M. Zimmerman concluded he "exhibits no risk to self or others," "is not characterologically nor personality impaired," "exhibits no social or emotional or psychological impairments," and "is adept at dealing with stressful events, stressful situations and crisis events and is capable, competent and conscientious." Mr. Signor's 2015 concluded he "suffered no emotional difficulty" and "does not suffer from a major mental illness."

LEGAL HISTORY

On or about 6/10/86 (age 31) Mr. Signor was charged with Lewd Act on a Minor for acts against his 13-year-old son which took place on or about 6/7/86. On 6/26/86 he was charged with Criminal Sexual Conduct with a Minor Second degree for acts against his 14-year-old adopted son which took place on or between 5/8/86 and 6/6/86. The related indictments note anal penetration of the 14-year-old and fondling of the 13-year-old. Mr. Signor posted bail after his arrests and remained in the community until 3/27/87 when he pleaded guilty to both charges. Per his sentencing sheets, he was sentenced to 10 years and 15 years of incarceration respectively, though subsequent records suggest this was 5 and 15 years, to run concurrently.

MR. SIGNOR'S VERSION OF EVENTS

Mr. Signor stated he actually "turned myself in" to the Mauldin Police Department in Greenville County knowing "what I was doing was wrong" and "it needed to stop." He acknowledged his offenses as described and stated, "I take full responsibility" and indicated he has never blamed anyone else for his actions. Mr. Signor stated at the time he offended he did not know why he committed his offenses but felt he needed help to make sure he "didn't do it again." He expressed he willingly entered treatment once incarcerated with SCDC.

SEX OFFENDER TREATMENT

Mr. Signor reported he was "motivated" to "learn about myself" and "why" he committed a sexual offense as "I knew better. I knew it was wrong." He stated he completed all three phases of the program, estimating he was in treatment "several years." He indicated treatment included group and individual sessions with a counselor. Mr. Signor stated his individual sessions were revealing in that he discovered he had been harboring a great deal of emotional discord related to his sexuality, marital difficulties, and lack of connection to others. He stated he realized he "took advantage" of the connection he was developing with his sons to achieve his own sexual gratification. Mr. Signor stated he learned better "coping skills" while in the treatment program as well as enhanced self-esteem and acceptance of himself which have led him to feel confident in his ability to accept his sexual interest in adult males and avoid a return to offending behaviors. He also stated having healthy habits and routines would help him flourish internally and externally.

Mr. Signor reported after completing the first phase of the treatment program he was offered a clerical position to assist the program coordinator. After completed the third phase, he was offered a teaching position helping to teach the newer inmates the first two phases of the program. As such, Mr. Signor stated he was able to stay involved in the treatment program until he was transferred out of the institution in 1989.

SEX OFFENDER REGISTRY

Mr. Signor was released from incarceration on 4/1/94 (age 39). In 2003, he was told he had to register as a sex offender on the states' Sex Offender Registry, though he had not previously been required to do so. He complied with the request as to avoid possible legal ramifications but reported he was later told by the sheriff's department he did not have to register. He indicated that since he had registered, there was nothing anyone could do to remove him. Mr. Signor stated he has petitioned the courts on two separate occasions to be removed from the registry to no avail since the law does not provide a mechanism for them to do so. There are no known concerns related to Mr. Signor's compliance with registering at his prescribed times/places etc. Mr. Signor's friends noted they have never known him to resist or circumvent the registration process.

POST INCARCERATION

After his release from incarceration Mr. Signor stated he began a long-term relationship, attended school, and worked. He stated he actively avoided situations or places where children would likely congregate and avoided any situation in which he may be alone with children. He stated he has had no problems or concerns related to his interactions with children since his return to the community.

When describing his relationship, he stated he met Ron through his roommate while at SCDC and began a friendship that morphed into a romantic relationship. Upon his release in 1994, he stated they moved in together and remained a couple for many

years. He indicated Ron was a support to him as he transitioned back to the community and despite the relationship ending, they have remained close friends. He denied any problems in the relationship but indicated they simply parted ways romantically. Ron confirmed this saying there were no problems in the relationship and that "the romantic side just faltered over the years." Ron described Mr. Signor as a "very caring" and "supportive person."

Mr. Signor denied any additional relationships, indicating he prefers to remain single. He indicated he has occasional sexual encounters with adult peers but denied anything long-term. Mr. Signor's friends confirmed they have never known him to be sexually preoccupied or interested in aberrant or deviant forms of sexual behavior. They stated he spends much of his time working and has remained single by choice.

Mr. Signor also reported returning to school where he obtained a certificate in Paralegal Studies from Central Carolina Technical College. He subsequently opened his own company. He stated he has been the sole proprietor of the company since that time. He described himself as a "workaholic" and indicated he spends 12-18 hours a day involved in work. Mr. Signor's friends confirmed he works "all the time" and is dedicated, "organized," and "hard working."

Mr. Signor denied using substances or alcohol to excess since his release. His friends confirmed they have never known him to use substances or abuse alcohol.

When not working, Mr. Signor stated he loves to cook, work in his garden, and visit his friends and family. He stated he is close with his younger brother, and they regularly visit one another. He stated his family and friends know of his convictions as well as his requirement to register. He denied any thoughts or urges to offend and denied difficulties or concerns related to his sexual interests or behaviors. Mr. Signor's friends confirmed Mr. Signor "avoids" situations where children would likely be present and is proactive in not engaging in child friendly activities (e.g., Halloween).

FUTURE PLANS

Mr. Signor stated he desires to "retire" and relocate to Key West, Florida which he considers his "home." He stated he has paid off many of his debts (e.g., mortgage, credit cards, etc.) and has retirement savings. He stated he has many friends in Key West who would help him get established and offer him support. He stated his only obstacle in relocating at this time is his placement on the sex offender registry.

CLINICAL PRESENTATION

This writer met with Mr. Signor on 7/26/21 in a private office for approximately two hours and 15 minutes. He presented as appropriately dressed and adequately groomed. He knew what month and year it was, who he was, and why he was meeting with this writer. His speech was goal-directed and organized. His attention and concentration were good, and he made appropriate eye contact throughout the interview. He did not

demonstrate any tics, compulsions, or unusual behaviors, and he did not appear to be responding to internal stimuli during the interview. He denied current suicidal or homicidal ideation and denied difficulty with sleep, appetite, or mood.

DIAGNOSTIC IMPRESSIONS

Mr. Signor does not present with characteristics, traits, or lifestyle patterns indicative of a mental health disorder. A paraphilic interest or disorder was particularly explored given his offenses were against male children.

Paraphilias are described as “any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners” and can also represent “any sexual interest greater than or equal to normophilic sexual interest (DSM IV, pg. 685).” A *paraphilic disorder* is a paraphilia that is “currently causing distress or impairment” or “whose satisfaction has entailed personal harm, or risk of harm, to others” as well as an analysis of the qualitative nature of the behavior and the negative consequences. Additionally, paraphilic interests or disorders require the arousals, interests, or behaviors to occur over a minimum time period as to help distinguish them from other motivations for the behavior. This is typically listed as six months.

Official records note Mr. Signor’s offense patterns occurred over a one-month period, with no indication of extensive grooming practices related to gaining access to the victims or developing a sexual relationship with them. Further, his lifestyle patterns themselves do not suggest a high level of focus on children or attempts to be around them. As such, there is no evidence to suggest a paraphilic interest or disorder played a role in his offenses. Based on his description of his treatment progress and relationship patterns prior to offending it is likely his offenses were situational in that the culmination of internal and external stressors led him to make such choices rather than a paraphilic interest.

Since his release from incarceration, there has been no indication of sexual arousal, interest, or behaviors related to a paraphilia, let alone one that would reach the level of a disorder. As such, no diagnosis is given.

RISK ASSESSMENT

It is important to note that overall, base rates of sexual recidivism are low. Most recent studies (e.g., Langan, Schmitt, & Durose, 2003; Boccaccini, Murrie, Caperton, & Hawes 2009; & Langstrom, 2004) find sex offenders would be expected to have recidivism rates of 7% or less. However, there is considerable variability in recidivism rates across samples, the source of which is not fully understood. In a 2010 South Carolina study, an 8% new charge and 5% new conviction rate were found across an 8.4 year follow up period (Letourneau, E; Levenson, J; Bandyopadhyay, D; Sinha, D; and Armstrong, K; 2010).

The key factors empirically supported through the research as contributing to sexual offense recidivism are typically divided into static and dynamic factors. Static factors (e.g., offense and victim characteristics) are relatively fixed aspects of an offender's history and therefore do not change with treatment interventions, environmental changes, or in terms of relationship to risk. Dynamic or sometimes referred to as psychologically meaningful factors (e.g., relationship status, deviant sexual interests, and compliance with supervision), are changeable and amenable to treatment and/or environmental manipulations and can help mitigate risk if adequately managed or intervened upon. Assessment of both static and dynamic factors is involved in determining risk for sexual reoffense.

STATIC RISK FACTORS

The following items have been empirically supported in the literature as contributing to sexual recidivism: having prior sexual offenses, having deviant sexual interests, psychopathy, being young at the time of offending, having stranger and/or unrelated victims, having male victims, never having been married or in a committed relationship, and violating the conditions of release and/or treatment (Witt & Conroy, 2009). *The only risk factor present for Mr. Signor is the gender of his victims.*

The Static-99R is an actuarial risk assessment designed to assess risk of sexual recidivism for adult males who have already been charged with or convicted of at least one sex offense against a child or non-consenting adult. Actuarial methods of risk assessment involve explicit rules to combine prespecified items (risk factors) into total scores, which are then linked to empirically derived estimates of recidivism probability (Hanson & Morton-Bourgon, 2009).

The Static 99R is intended to position offenders in terms of their relative degree of risk for sexual recidivism based on commonly available demographic and criminal history information that has been found to correlate with sexual recidivism in adult male sex offenders. The scores characterize the individual's relative risk for sexual recidivism in terms of how unusual it is and in terms of how it compares to risk presented by the typical offender. The recidivism estimates were derived from new charges and reconvictions of groups of individuals; as such, these estimates do not directly correspond to the recidivism risk of an individual offender.

Mr. Signor's score of 1* on the Static-99R places him in the Level III or *Average Risk* category of being charged with or convicted of another sexual offense relative to other adult male sex offenders. This level is described as the "typical [sexual] offender[] in the middle of the risk distribution." In routine samples with the same score as Mr. Signor, the five-year sexual recidivism rate was 3.9% with confidence intervals between 3.3% and 4.7%. This means that out of 100 sexual offenders with the same risk score, between 3 and 4 would be charged with or convicted of a new sexual offense within five years in the community. Conversely, between 96 and 97 would not be charged with or convicted of a new sexual offense during that time.

*For Mr. Signor's score, it is important to note his *age at release* (age 39) was used to score the Static 99R, not his current age of 67. His score on this measure will not change with advancing age.

Mr. Signor has been in the community post incarceration for 27 years. Authors of the Static 99R note that "the longer an offender has been free of detected sexual offending... the lower their risk of recidivism." They specifically note, "our research has found that, in general, for every five years the offender is in the community without a new sex offense, their risk for recidivism roughly halves (Hanson, Harris, Helmus, & Thornton, 2014)." They recommend that "for offenders with two years or more sex offense free in the community" this be "considered in the overall evaluation of risk."

Mr. Signor's risk estimates were based on a five-year estimate, the end of which would trigger a reduction in risk estimate as described above. Mr. Signor has now been in the community for 27 years. He has not been charged or convicted of a new sexual offense. Nor has an allegation of inappropriate sexual behavior been made against him. Based on the research and recommendations of the authors of the Static 99R, his initial risk estimate of 3.3% to 4.7% has now been reduced significantly and is now highly unlikely.

DYNAMIC RISK FACTORS

The following items have been empirically supported as contributing to sexual recidivism: having a sexual preoccupation, a sexual preference for prepubescent or pubescent children, sexualized violence, multiple paraphilias, offense-supportive attitudes, emotional congruence with children, a lack of emotionally intimate relationships with adults, lifestyle impulsiveness, exhibiting poor problem solving, demonstrating resistance to rules and supervision, grievance/hostility, and having negative social influences (Mann, Hanson, & Thornton, 2010).

Based on Mr. Signor's lifestyle factors and offense dynamics, he does not appear to meet criteria for the above listed dynamic risk factors, as they are defined in the literature. Prior to his incarceration some factors may have applied to him, but what is clear is that over the 27 years he has been in the community, the above-described factors do not appear to have been playing a role in his life. As such, no dynamic risk factor is assigned.

PROTECTIVE FACTORS

Protective factors are characteristics (e.g., skills, strengths, and coping strategies), resources, or aspects of one's environment that mitigate recidivism risk or help individuals better manage stressful situations. Mr. Signor successfully completed sex offender treatment while incarcerated. He obtained an education and certificates allowing him to secure lucrative employment. He began and maintained his own company allowing him to responsibly attend to his financial needs. He has strong relationships with family and peers. He has healthy leisure outlets. Mr. Signor has

avoided criminal activity or the use of substances. He has been compliant with all requests to register on the Sex Offender Registry.

CONCLUSION

This evaluation was completed to address Mr. Signor's risk for future sexual offense and whether his level of risk necessitates continued placement on the sex offender registry.

Regarding risk, Mr. Signor presents with one static risk factor (having male victims), and no dynamic risk factors. Conversely, he presents with multiple protective factors and a 27-year-history of demonstrating an ability to mitigate and manage any risk he once posed. Collectively this suggests Mr. Signor does not pose a continued risk for sexual recidivism.

Regarding the registry, it is important to note what this does or does not do. The registry is a list of convicted sex offenders in the state. Being placed on the registry requires an offender to register with local law enforcement at predetermined intervals based on risk to allow for monitoring and tracking of offenders in the community. However, offenders are not actually monitored, as in watched, but rather their compliance with registration is monitored. Additionally, various other offender restrictions are often implemented (e.g., residency restrictions, curfews, social limitations, etc.). What the registry is not is a risk reduction tool. Numerous studies have outlined the ineffectiveness of the sex offender registry in reducing sexual recidivism and research is consistent in highlighting the negative consequences of placement on the registry, such as employment challenges, stigmatization by society, social isolation, psychological and emotional burdens, etc. As such, a recommendation for placement on the registry should be considered when offenders are high risk and need additional external restrictions. In my opinion, Mr. Signor does not fall into this category and should no longer be included on the sex offender registry.

Respectfully submitted,

Rozanna Tross, Psy.D.

Rozanna Tross, Psy.D.
Licensed Psychologist

7/29/21

Date

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)
)
KENNETH W. SIGNOR,)
PETITIONER,)
VS.)
)
MARK KEEL,)
DIRECTOR, SOUTH CAROLINA)
LAW ENFORCEMENT)
DIVISION (SLED), AND THE)
STATE OF SOUTH CAROLINA,)
)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
C/A No.: 2014-CP-43-968
AFFIDAVIT OF THOMAS V. MARTIN, M.D.

I, Thomas V. Martin, M.D., am a licensed physician (psychiatrist) in the state of South Carolina. I am Board Certified in General and Forensic Psychiatry by the American Board of Psychiatry and Neurology. My practice is located at 1330 Richland Street, Columbia, SC. My practice includes the care and treatment of patients from childhood to geriatrics. I have been qualified to testify in numerous counties in South Carolina as well as the United States Federal Courts. My practice of twenty-five years has included the assessment and treatment of many sexual offenders from all counties in South Carolina.

Being duly sworn I do swear and affirm the following:

- 1) Mr. Kenneth W. Signor is a 60 year old divorced male, who is a gainfully employed real estate paralegal of his self-owned business, Signor & Company, LLC for over 20 years. In 1986 in Greenville County, SC, Mr. Signor self-reported and later pled guilty to Criminal Sexual Conduct (CSC) 2nd Degree with a Minor and Lewd Act on a Minor after sexually victimizing his adopted sons, ages 13 and 14 yrs. He was subsequently sentenced to 15 years for the CSC and five years for the Lewd Act charges to run concurrently and was incarcerated from 1986 until April 1994. In 2001, Mr. Signor was required by the State to register with the SC Sex Offender Registry. He is now petitioning to have this requirement removed and be taken off the lifetime Registry.
- 2) This Examiner's assessment of this forensic case and petition included a review of Mr. Signor's criminal record, his arrest warrants and indictments, letters from Tommy R. Mims, Sheriff of Sumter County, and a letter from Major Mark Huguley, SC Law Enforcement Division. This review was followed by an individual two hour clinical

SIGNOR, Kenneth W.
SSN: 265-11-5397

SENSITIVE MEDICAL MATERIAL

1

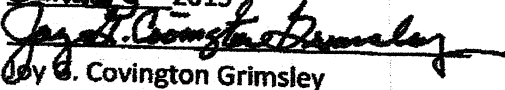
consultation and risk assessment of Mr. Signor. What follows is a summary of this Examiner's findings.

- 3) Mr. Signor has been a viable and productive citizen within his community. He has no subsequent criminal record, and suffered no emotional difficulty following the divorce from his spouse in 1985. While incarcerated in the SC Department of Corrections (SCDC), Mr. Signor successfully completed sex offender therapy and treatment. As an inmate, he gained employment as a teacher, served as an inmate administrator, committed no major infractions, and developed a closer and supportive relationship to his family.
- 4) Throughout the consultation, Mr. Signor remained candid and genuine surrounding his sexual offense history. He acknowledged full responsibility for his aberrant behaviors, had empathy for those he hurt by his actions, and understood the cognitive distortions and dysfunctional interpersonal dynamics that were in play during his time of offending. His time incarcerated was spent building healthier prosocial skills, and he has continued this pattern of model behavior in his lifestyle and work ethic since his release. Mr. Signor has never failed to register as a sexual offender in accordance to the statute.
- 5) Diagnostically, Mr. Signor does not suffer from a major mental illness. He has no history of addictive substance abuse or dependence. Furthermore, Mr. Signor does not suffer from a sexual perversion disorder, Paraphilia. He has developed healthy and long-term interpersonal relationships and has built a successful business that has not only bolstered his character development, but his contribution to society. Mr. Signor has a supportive character reference from the former Sheriff of Sumter County. He has no subsequent history of aberrant behaviors or relationships with adults or children. Mr. Signor does not require psychotherapeutic intervention or treatment.
- 6) In conclusion, Mr. Signor poses a very low risk to sexually reoffend. He has consistently demonstrated admirable and laudable behavior in his community and with his family. His annual re-registry as a sexual offender has only proven to be detrimental to Mr. Signor's clear pattern of progress and is not required as a deterrent to further sexual acting out behavior. The SC Sex Offender Registry serves to assist law enforcement and the community in monitoring those dangerous individuals who do not manage their aberrant sexual behaviors and fail to follow our social and community mores. Mr. Signor does not meet these criteria.

Further affiant sayeth not.

Sworn to before me this 13th day of

January 2015

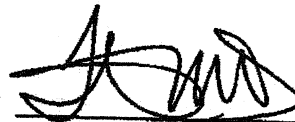


Jay G. Covington Grimsley

A Notary Public for South Carolina

My Commission Expires: 12-15-2017

SIGNOR, Kenneth W.
SSN: 265-11-5397



Thomas V. Martin, M.D.

SENSITIVE MEDICAL MATERIAL

Sumter Therapy Center

Karen M. Zimmerman, ACSW, LISW, BCD
Diplomate in Clinical Social Work
Psychotherapist
PO Box 2667 • Sumter, SC 29151
(803) 773-3434 • Fax (803) 775-7181

October 3, 2000

To Whom This May Concern:

I am Karen Zimmerman, ACSW, LISW, BCD and I am writing in regards to Kenneth Signor who presented to me subsequent to having received correspondence from your agency asking for additional information concerning his (Mr. Signor's) psychological health, emotional health and social health as it pertains to his endeavor to obtain a pilot's license and certification.

Please accept this correspondence as verification and in support of Mr. Signor's endeavors.

Mr. Signor exhibits no risk to self or others. He is not characterologically nor personality impaired. He exhibits superior self awareness, keen judgement, astute insight and is well above average intelligence. He is well respected in this community and his business is solid and is such as to be a main stay of the city itself.

Mr. Signor exhibits no social or emotional or psychological impediments that would impair his abilities to fly safely and responsibly. On the contrary, his high caliber of comprehension, skill and competence is far above the average individual.

Mr. Signor is adept with dealing with stressful events, stressful situations and crisis events and is capable, competent and conscientious. His decision making skills and problems solving skills are precise and not impulsive. His savvy with responding and not reacting is commendable.

Finally, Mr. Signor has not, nor is he now addicted to alcohol, prescription or non prescription drugs or narcotics, nor has he endeavored to be tantalized by illicit drugs. On the contrary, Mr. Signor exhibits a need to follow the rules and is most astute and adept with doing the right thing the right way.

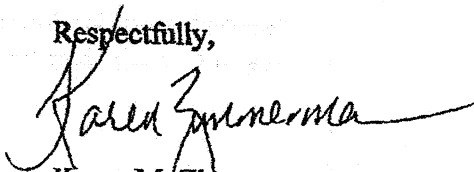
It is not often that I am asked to nor am I frequently privileged to assess and evaluate individuals of Mr. Signor's caliber.

I have been a private practice since 1985 and have treated many, many pilots and future pilots, to include those who fly jets in combat or those who fly for leisure or recreation.

It is my professional opinion and recommendation that Mr. Signor be permitted to pursue his dream and fly with respect, honor, skill and the assuredness that others believe in his talents and abilities without trepidation.

I am

Respectfully,



Karen M. Zimmerman
Psychotherapist
Diplomate in Clinical Social Work
Master Addiction Counselor
Senior Disability Analyst and Diplomate
Diplomate of the American Board of Forensic Examiners

KMZ/mm

The State of South Carolina
County of GREENVILLE

INDICTMENT FOR
LEWD ACT UPON A MINOR
VIOLATION SECTION 16-15-140

At a Court of General Sessions, convened on the 18th day of September
19 86, the Grand Jurors of Greenville County present upon their oath:

That KENNETH WAYNE SIGNOR, SR.

did in Greenville County on or about the 7th day of June
19 86, wilfully and lewdly commit or attempt to commit a lewd and lascivious
act upon or with the body, or a part or member thereof, of his twelve year-
son K.S. (to wit: by rubbing and squeezing victim's buttocks and removing
victim's underwear at the time of the incident), with the intent of arousing,
appealing to, or gratifying the lust or passions or sexual desires of the
defendant or of such child. This is in violation of South Carolina Code Section
16-15-140.

Against the peace and dignity of the State,
provided.

[Large handwritten signature and scribbles]

MS6060902

Form Approved by
S. C. Attorney General
Section 17-13-160
March 15, 1974

STATE OF SOUTH CAROLINA

Arrest Warrant **A 200313**

ARREST WARRANT

COUNTY OF Greenville

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF _____, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that (name of defendant):
Kenneth Wayne Signer Sr
did on the 7th day of June, 19 86,
violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE

Load Art Upon A Minor

Now, therefore, you are empowered and directed to arrest the said defendant and bring him before me forthwith to be dealt with according to law.

A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Done at Mauldin Police Dept., S. C., this 10th day of June, 19 86.

A. Hunter Howard (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Greenville

Personally appeared before me, a magistrate of this County, one L. E. H. Sheehart, who, first being duly sworn, deposes and says that (name of defendant)
Kenneth Wayne Signer Sr.

did within this County and State on the 7th day of June, 19 86, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

Load Art Upon A Minor

The Affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Affiant has a signed statement from the victim who is a juvenile that his father the defendant Kenneth Wayne Signer Sr. was robbing and opening his barretts also removed his underwear at the time of the incident.

Sworn to and Subscribed before me

this 10th day of June, 19 86
A. Hunter Howard (L.S.)
Signature of Judge

L. E. H. Sheehart
Affiant

Address Mauldin Police Dept.

Mauldin, S.C.

Phone 878-2222

FORM CONTINUES ON BACK

ORIGINAL



RETURN

STATE OF SOUTH CAROLINA

County of Greenville FILED 12/29/13

THE STATE 6-13-86

A copy of this Arrest Warrant was delivered by me to the following individual:

Kenneth Wayne Simpson

on the 10 day of June

at B. S. Clemons

Law Firm

This Warrant is certified for service in County. This warrant is to be returned and brought before me to be dealt with according to law.

(U.S.)

INFORMATION ON DEFENDANT

Name Kenneth Wayne Simpson Jr.

Address 100 Myrtle St.

Greenville, S.C. 29613

Phone 853-4407

Sex M Race W Height 6-11

Weight 188 Birthdate 6-17-64

Social Security Number _____

INFORMATION ON WITNESSES

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

PRELIMINARY HEARING held by

Magistrate [Signature]

on _____, 19__

with _____

Attorney for Defendant _____

BAIL

Date Set JUNE 10, 1986

Magistrate [Signature]

Amount \$5000 of Recy

Surety _____

The State of South Carolina

County of GREENVILLE

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR
(2nd Degree)
VIOLATION SECTION 16-3-652

At a Court of General Sessions, convened on the 18th day of September
19 86, the Grand Jurors of Greenville County present upon their oath:

That KENNETH WAYNE SIGNOR, SR.

did in Greenville County on or about the 8th day of May then 1986,
engage in sexual battery with his thirteen-year-old son N.T.S. by having
sexual relations with the victim by anal penetration, he being approximately
32 years of age. This is in violation of South Carolina Code Section 16-3-653.

Against the peace and dignity of the State, the Grand Jurors do hereby return this indictment
provided.

Joseph J. Williams
Deputy

STATE OF SOUTH CAROLINA

[Signature]
A copy of this document should be delivered to the arresting authority.

County of Greenville
Case # A-200541
THE GENERAL
WARRANT
Armed
2-11-06
Kawant Avenue Stone SC

ARREST WARRANT

on the _____ day of _____, 19____
County of _____
Law Enforcement Officer _____
This Warrant is certified for service in _____
County. This warrant is to be served and brought before me so I can deal with according to law.
Judge/Clerk _____ (L.S.)

Offense Charged: State Barter Act
A. 2005 41
Code Section: 16-7-635
Date: 02-26-06
Officer and Agency: ANY LAW ENFORCEMENT

Deputy _____
Judge _____
Co-Defendant _____

INFORMATION ON DEFENDANT

Name: Alfonso Miguel Stone Sr.
Address: 101 Sassafras St.
Durham, S.C. 29022
Phone: 803-492-7002
Sex: M, Race: M, Height: 6'1"
Weight: 185, Birthdate: 06-17-54
Social Security Number: _____

INFORMATION ON WITNESSES

Name _____
Address _____
Phone _____
Name _____
Address _____
Phone _____
Name _____
Address _____
Phone _____

PRELIMINARY HEARING held by

Magistrate _____
on _____, 19____
with _____
Attorney for Defendant _____
Declarer: _____

BAIL

Date Set: 6-26-06, 1906
Magistrate: James Wilkins
Amount: \$5,000.00
S.nty _____

Form Approved by
S. C. Attorney General
Section 17-13-160
March 18, 1978

STATE OF SOUTH CAROLINA
COUNTY OF Greenville

Arrest Warrant **A 200324**
ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF Marble, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that (name of defendant)
KENNETH WAYNE SIMONS SA.
did on the 8 May day of May 1986, 19 86,
violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE

Criminal Sexual Contact with a Minor 2nd Degree

Now, therefore, you are empowered and directed to arrest the said defendant and bring Kenneth
Wayne Simons SA. before me forthwith to be dealt with according to law.

A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon
thereafter as is practicable.

Done at Greenville, S. C., this 26th day
of May, 19 86.

James M. [Signature] (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA
COUNTY OF Greenville

AFFIDAVIT

Personally appeared before me, a magistrate of this County, one H. L. Stewart
who, first being duly sworn, deposes and says that (name of defendant)
Kenneth Wayne Simons SA.

did within this County and State on the 8 May day of May 1986,
19 86, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

Criminal Sexual Contact with a Minor 2nd Degree

The Affiant states that there is probable cause to believe that the defendant named above did commit the
crime(s) set forth, and that such probable cause is based on the following facts:

Affiant has a signed statement from the victim who is a
female, that from May 8, 1986 - May 6, 1986, the defendant
Simons, known as SA, did have sexual relations with the victim
by anal penetration. This happened approx. 3 to 4 times.

Sworn to and Subscribed before me
on 26th day of May, 19 86.
James M. [Signature] (L.S.)
Signature of Judge

H. L. Stewart
Magistrate
Address Marble P.D.

Phone 297-5200

FORM CONTINUES ON BACK

ORIGINAL

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE)

Case No. 1986-GS-23-5233

State of South Carolina,)

vs.)

**STATE'S MEMORANDUM IN
OPPOSITION TO DEFENDANT'S
MOTION FOR ORDER OF
REMOVAL**

Kenneth Wayne Signor, Sr.,)

Defendant.)

The State of South Carolina ("The State") submits this Memorandum in Opposition to Defendant Kenneth Wayne Signor, Sr.'s, ("Defendant") Motion for Order of Removal from the South Carolina Sex Offender Registry ("Registry").

BACKGROUND

In 1986, Mauldin Police Department charged Defendant with one count of Criminal Sexual Conduct with a Minor (2nd degree) and one count of Lewd Act on a Minor. The victims of these two crimes were Defendant's 13-year old son and 12-year old son, respectively. Defendant pled guilty to these charges on March 27, 1987, and the Court sentenced Defendant to 15 years imprisonment on the Criminal Sexual Conduct charge and 10 years on the Lewd Act charge.

On or about April 1, 1994, Defendant was released from incarceration by the South Carolina Department of Corrections. That same year, the South Carolina Legislature passed legislation creating the Registry, which took effect July 1, 1994. That act, and subsequent amendments, require persons convicted of or pleading guilty to certain offenses to register with the South Carolina State Law Enforcement Division ("SLED") for the purpose of monitoring them and protecting the community from persons who have committed those class of offenses. South Carolina courts have held that such a requirement does not violate the ex post facto clause, even

for persons convicted and released prior to the creation of the Registry. See State v. Walls, 348 S.C. 26, 558 S.E.2d 524 (2002).

On January 19, 2001, Defendant registered as a sex offender for the first time based on his two 1987 guilty pleas. In 2014, Defendant filed a declaratory judgment action in Sumter County, where he was residing, against SLED and the State seeking a declaration in equity that he should be removed from the Registry due to the amount of time that had passed since his conviction and his alleged good behavior since that time. Judge Clifton Newman granted a Motion for Judgment on the Pleadings filed by SLED and the State, who had denied that Defendant was entitled to the relief that he was seeking. The Court of Appeals affirmed the judgment in an unpublished opinion, and the Supreme Court denied Defendant's writ of certiorari.

In 2022, the South Carolina General Assembly, following the South Carolina Supreme Court decision in Powell v. Keel, 433 S.C. 457, 860 S.E.2d 344 (2021), reh'g denied (Aug. 4, 2021), enacted S.C. Code Ann. § 23-3-462, which created a procedure by which persons could apply to SLED to be removed from the Registry if they met certain conditions. S.C. Code Ann. § 23-3-462, in relevant part, allows an offender to apply to be removed from the Registry "**after having been registered for at least twenty-five years**, if the offender was convicted as an adult, and was required to register as a Tier II offender." S.C. Code Ann. § 23-3-462(A)(1)(b) (emphasis added). Defendant, having pled guilty to Criminal Sexual Conduct with a Minor (2nd degree), is classified as a Tier II offender under S.C. Code Ann. § 23-3-430(C)(2)(a).

Defendant applied to SLED to be removed from the Registry in 2022. At that time, he had only been registered for 21 years. On August 22, 2022, SLED issued a letter denying Defendant's application to be removed from the Registry. SLED cited to the fact that Defendant had not met the twenty five-year requirement set forth in § 23-3-462(A)(1)(b).

On October 17, 2022, Defendant filed the instant Motion pursuant to S.C. Code Ann. § 23-3-463, which was also enacted in 2022. That statute allows offenders to file a motion with the general sessions court for an order to be removed from the Registry if they meet certain criteria, one of which is that the offender is a Tier II offender who application to SLED under § 23-3-462 has been denied by SLED. See S.C. Code Ann. § 23-3-463(A)(1). In the Motion, Defendant alleges that he should be removed from the Registry because more than twenty-five years have elapsed since his conviction and that he is not likely to commit any other criminal offenses of a sexual nature.

ARGUMENT

I. DEFENDANT IS NOT ENTITLED TO A HEARING ON HIS MOTION

The language of S.C. Code Ann. § 23-3-463(B) is clear regarding when Defendant is eligible for a hearing:

All motions pursuant to this section must be made no earlier than the appropriate timeframes related to the underlying offense as specified in Section 23-3-462(A)(1) or subsection (A)(2). An offender is not eligible for a hearing pursuant to this section if he submitted an application prior to the timeframe specified in Section 23-3-462(A)(1) that was either not accepted or erroneously accepted by SLED.

As stated earlier, the appropriate time frame for Defendant as set forth in S.C. Code Ann. § 23-3-462(A)(1)(b) is twenty-five years since he first was listed on the registry. He has only been on the registry for just over twenty-two years at this point, so he is not entitled to a hearing.

Furthermore, Defendant submitted an application to SLED to be removed from the Registry that was not accepted on August 22, 2022. Again, the application was prior to the timeframe set forth in S.C. Code Ann. § 23-3-462(A)(1)(b), so for this additional reason Defendant is ineligible for a hearing.

Defendant has not set forth any basis for granting him a hearing, which would be in clear contravention of the applicable statute. Therefore, the Court should consider his motion no further.

II. DEFENDANT IS NOT ELIGIBLE FOR REMOVAL

Defendant's alleged grounds for removal from the Registry cannot overcome the simple, basic truth that he is not eligible for removal under the plain language of the statute.

South Carolina's Sex Offender Registry statutes, S.C. Code Ann. § 23-3-400 *et seq.*, provide the only lawful mechanisms and avenues by which an individual who is properly placed on the Registry can be removed. Otherwise, a person who is required to register must do so for life. *See* S.C. Code Ann. § 23-3-460(A).

S.C. Code Ann. § 23-3-430 includes provisions to remove from the Registry someone who has had his or her adjudication, conviction, guilty plea, or plea of *nolo contendere* reversed, overturned, or vacated on appeal; someone who has received a pardon; or someone who has been exonerated subsequent to filing a petition for a writ of habeas corpus or a motion for a new trial. None of those apply to Defendant, and therefore he is not eligible to be removed under S.C. Code Ann. § 23-3-430. Also, he was not convicted as a juvenile, so S.C. Code Ann. § 23-3-437 would not apply to him either.

The final methods by which an offender may be removed from the Registry are the aforementioned S.C. Code Ann. §§ 23-3-462 and -463. S.C. Code Ann. § 23-3-462 deals with applying for termination of the reporting requirements directly with SLED, while S.C. Code Ann. §§ 23-3-463 deals with moving before the court to be removed from the registry. Both statutes, passed by the legislature in 2022 in the wake of Powell v. Keel, 433 S.C. 457, 860 S.E.2d 344 (2021), reh'g denied (Aug. 4, 2021), utilize the same timeframe eligibility an offender must meet in order to be considered for removal as set forth in S.C. Code Ann. § 23-3-462(A)(1) and (A)(2).

Defendant is a Tier II offender based upon his guilty plea to Criminal Sexual Conduct with a Minor (2nd degree). The minimum amount of time he must register as a sex offender before he can apply to be removed is twenty-five years. See S.C. Code Ann. § 23-3-462(A)(1)(b). As previously set forth, he registered for the first time on January 19, 2001. Twenty-five years from that date is January 19, 2026, or almost three years from now.

According to Defendant's motion, he appears to argue that the statutory timeframe approved by the legislature just last year does not apply to him. Instead, he argues that his timeframe should be calculated based upon when he was convicted and when he was released from incarceration. However, Defendant lacks any statutory or legal support for his position.

The statute setting forth the timeframe for when an offender may apply or move for removal from the Registry is unambiguously worded. The South Carolina Supreme Court has specifically held that

[i]f a statute's language is plain, unambiguous, and conveys a clear meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." Buist v. Huggins, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006) (internal quotes and citation omitted). Instead, the words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation. Id. Moreover, "it is beyond this Court's power to effect a change in the statutes enacted by the Legislature." State v. Corey D., 339 S.C. 107, 120, 529 S.E.2d 20, 27 (2000); see also Keyserling v. Beasley, 322 S.C. 83, 86, 470 S.E.2d 100, 101 (1996) (this Court does "not sit as a superlegislature to second guess the wisdom or folly of decisions of the General Assembly.")

Key Corporate Capital, Inc. v. Cnty. of Beaufort, 373 S.C. 55, 59, 644 S.E.2d 675, 677 (2007).

Defendant appears to be attempting to argue that in equity he should be eligible to apply or move to be removed from the Registry, since he legally is not able to do so. It is well-known that "equity follows the law." See Regions Bank v. Wingard Properties, Inc., 394 S.C. 241, 254-55, 715 S.E.2d 348, 355 (Ct. App. 2011) citing Smith v. Barr, 375 S.C. 157, 164, 650 S.E.2d 486,

490 (Ct. App. 2007); Morgan v. S.C. Budget & Control Bd., 377 S.C. 313, 319-20, 659 S.E.2d 263, 267 (Ct. App. 2008). Moreover, the South Carolina Supreme Court has held that a "court's equitable powers **must yield** in the face of an unambiguously worded statute." Santee Cooper Resort, Inc. v. S.C. Pub. Serv. Comm'n, 298 S.C. 179, 185, 379 S.E.2d 119, 123 (1989) (emphasis added)).

In enacting S.C. Code Ann. §§ 23-3-462 and -463, the legislature could have chosen to utilize a scheme such as that set forth in S.C. Code Ann. § 23-3-540(H), which allows an offender to move after ten years to no longer be subject to electronic monitoring. The legislature also could have chosen to connect the timeframe for applying to come off the Registry to an individual's date of conviction or date of release from incarceration. It chose not to do so, instead enacting the timeframes currently set forth.

The issues presented in this case are analogous to legislatively mandated minimum sentences for criminal offenses. See S.C. Code Ann. § 16-11-330 (10 years); S.C. Code Ann. § 44-53-370 (various mandatory minimums for distribution or trafficking illegal drugs); S.C. Code Ann. § 16-3-20 (30 years). Following convictions of these offenses, the South Carolina Legislature has unilaterally prohibited judges from sentencing individuals below the statutorily set amounts. However, these statutory minimums are, and have been consistently upheld as being, lawful. See State v. De La Cruz, 302 S.C. 13, 393 S.E.2d 184 (1990); State v. Jones, 344 S.C. 48, 543 S.E.2d 541 (2001); State v. Johnson, 350 S.C. 543, 567 S.E.2d 486 (Ct. App. 2002). In fact, the South Carolina Supreme Court conclusively resolved this issue in State v. De La Cruz, indicating:

[w]e have held in the past that "[t]he penalty assessed for a particular offense is, except in the rarest of cases, 'purely a matter of legislative prerogative,' and the legislature's judgment will not be disturbed." State v. Smith, 275 S.C. 164, 167, 268 S.E.2d 276, 277 (1980) (quoting Rummel v. Estelle, 445 U.S. 263, 100 S.Ct. 1133, 63 L.Ed.2d 382 (1980)). Judicial discretion in sentencing, in suspending sentences, and in designating that sentences run concurrent or consecutive is subject to

statutory restriction. See Mistretta v. United States, 488 U.S. 361, ----, 109 S.Ct. 647, 650, 102 L.Ed.2d 714, 725-726 (1989), wherein the United States Supreme Court noted, "Congress, of course, has the power to fix the sentence for a federal crime, and the scope of judicial discretion with respect to a sentence is subject to congressional control." (citing United States v. Wiltberger, 18 U.S. (5 Wheat) 76, 5 L.Ed. 37 (1820); Ex Parte United States, 242 U.S. 27, 37 S.Ct. 72, 61 L.Ed. 129 (1916)).

302 S.C. 13, 15-16, 393 S.E.2d 184, 186 (1990).¹ In addition, the Supreme Court has also noted that

[u]nder the mandatory sentencing guidelines, the prosecutor can still choose not to pursue the triggering offenses or to plea the charges down to non-triggering offenses. Choosing which crime to charge a defendant with is the essence of prosecutorial discretion, not choosing which sentence the court shall impose upon conviction. Further, we found the matter of sentencing if convicted of a triggering offense to be a matter within the province of the legislature. Id.

State v. Jones, 344 S.C. 48, 56, 543 S.E.2d 541, 545 (2001).

The timeframe for when an individual may apply or move to be removed from the Registry is purely a matter of legislative prerogative, and there is no judicial discretion over this duration without violating the separation of powers mandated by the South Carolina Constitution. See S.C. Const. art. I, § 8 ("In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other."). Even as it was determining that individuals should have an opportunity to seek judicial review to be removed from the Registry, the South Carolina Supreme Court deferred to the Legislature to determine how best to accomplish that.

We recognize the development of a judicial review process is a matter best left to the General Assembly. See Moseley v. Welch, 209 S.C. 19, 26-27, 39 S.E.2d 133,

¹ It is noteworthy that sex offender registration has been consistently held not to be "punitive in purpose or effect as to constitute a criminal penalty." State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002). However, the same sentiment would apply to an administrative requirement like registration in terms of the legislative prerogative.

137 (1946) (“The supreme legislative power of the State is vested in the General Assembly.”); see also State v. Bani, 97 Hawai’i 285, 36 P.3d 1255, 1268 (2001) (“[T]he difficult and sensitive task of reaching an accommodation between the State’s substantial interest in requiring sex offender registration and notification, on the one hand, and an offender’s legitimate interest in ensuring against erroneous deprivation of his or her liberty interest, on the other, is best left, in the first instance, to the legislature.”); Doe v. State, 167 N.H. 382, 111 A.3d 1077, 1101 (2015) (noting the specifics of a judicial review process for sex offenders requires “line-drawing” which is “a task for the legislature”). To be sure, the General Assembly has ably established judicial review in the sex offender context before, and such procedures do not impede the legitimate goals of the legislation. See S.C. Code Ann. § 23-3-540(H) (2007 & Supp. 2020) (outlining the process by which a person may be released from SORA’s satellite monitoring requirements); *id.* §§ 44-48-110 to -130 (2018) (providing a petition process for sexually violent predators to be released from commitment). Therefore, we are confident in the General Assembly’s ability to fulfill our request to fashion the particulars of the hearing process. Nevertheless, we require the hearings at which sex offenders may demonstrate they no longer pose a risk sufficient to justify continued registration be conducted with reasonable promptness and meet standards of fundamental fairness

Powell v. Keel, 433 S.C. 457, 467–68, 860 S.E.2d 344, 349 (2021), reh’g denied (Aug. 4, 2021).

In light of the clear language of the statute and clear intent of the South Carolina General Assembly, the Court should find that Defendant is not eligible for an order to be removed from the requirements of the Registry.

III. DEFENDANT IS SUBJECT TO EVALUATION PRIOR TO AN ORDER FOR REMOVAL

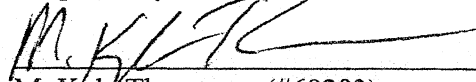
If the Court determines that Defendant is eligible for a hearing and for an order for removal from the Registry, then the Defendant still must undergo the evaluation as set forth in S.C. Code Ann. § 23-3-463(E). This section states that the Court “may direct that a qualified evaluator designated by the South Carolina Department of Mental Health conduct an evaluation whether the offender poses a foreseeable risk to reoffend.” Defendant has the burden of proof by clear and convincing evidence to show that he is no longer a foreseeable risk to reoffend and that it is in the best interest of justice to remove him from the Registry per S.C. Code Ann. § 23-3-463(F). Before

the Court can consider whether he has met that burden, the Court should have the Defendant evaluated as set forth in the statute and not rely on the evaluations by Defendant's retained examiners.

CONCLUSION

Defendant is not entitled to a hearing on his Motion for Order for Removal from the Registry. Defendant does not meet the statutory requirements for removal and his motion should be denied. If the Court determines that Defendant may be eligible for removal, than the Court should order an evaluation by a qualified evaluator designated by the South Carolina Department of Mental Health.

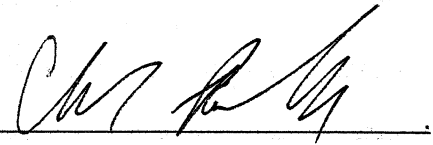
Respectfully submitted,



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March 8, 2023
Greenville, South Carolina

that time and he would have been on the sex offender registry since 1994 which is approximately 29 years. Since the clear reading of SC 23-3-440, does not provide any specific mechanisms to address the applicants situation, the Court's power of equity should prevail as the statute is ambiguous to such an individual and the Court should deem that the applicant has so registered for approximately 29 years. As a practical matter, the state is allowed to go back to convictions prior to the registry's enactment to have individuals register, then equity would also conclude that the state had the affirmative duty to notify verbally and in writing all individuals residing in South Carolina that they had to indeed so registry in compliance with 23-3-440.



Charles T. Brooks, III
Attorney for Applicant

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There were no witnesses.

There were no exhibits.

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Certificate of Reporter 17

1 THE COURT: All right, I believe this is
2 Mr. Brooks motion. The Defendant's motion, be glad
3 to hear from you.

4 MR. THOMPSON: And, Your Honor, I apologize,
5 before we get started, I just want to point out, the
6 statute -- Kyle Thompson for The State. The statute,
7 that's 23-3-462 Subsection B states that The
8 offender's not eligible for even a hearing, if we're
9 outside the timeframe set forth in 23-3-462(a)(1) for
10 Mr. Signor on his petition to come off the sex
11 offender registry, he's a tier two offender. So that
12 timeframe is 25 years from when he gets on the
13 registry. So under--

14 THE COURT: How can you determine that he's not
15 entitled to a hearing until he has a hearing?

16 MR. THOMPSON: Just raising that for The Court.

17 THE COURT: I know, kind of a catch-22; isn't
18 it?

19 MR. THOMPSON: It is, Judge.

20 THE COURT: Let me hear from him and then we'll
21 address it.

22 MR. THOMPSON: Certainly, Judge.

23 MR. BROOKS: I do want to thank Mr. Thompson, he
24 told me not to come up here too early because you got
25 a lot of things on your calendar because I was

1 driving in from Sumter. But may it please the Court,
2 Judge, we agree with probably 80, 85 percent of what
3 the solicitor filed in response to our motion. What
4 we disagree with is basically how do you credit my
5 client's time with actually registering? And I think
6 the important statute is not the one that the
7 solicitor's citing, but the important statute is --
8 and I'll hand up a reply to his brief that he filed.
9 But the important statute is actually Section
10 23-3-440. And I'll get to that.

11 MR. THOMPSON: And, Your Honor, I emailed a copy
12 of my brief to your clerk the other day, did you get
13 a copy of that?

14 THE COURT: I may.

15 MR. THOMPSON: Or I got another copy I hand up,
16 if you need it, Judge.

17 THE COURT: Let me pull it up, let me see. I
18 got it. I've got it, yeah.

19 MR. BROOKS: If I may, Judge?

20 THE COURT: Yeah.

21 MR. BROOKS: The reason that statute is
22 significant, this is the statute that was actually
23 enacted in July of 1994 that actually places an
24 affirmative duty on the State of South Carolina and I
25 quote, the department of corrections, The department

1 of juvenile justice, juvenile parole board, the
2 department of probation pardon and parole services,
3 shall provide verbal and written notification to the
4 offender that he must register with the sheriff's
5 department. Within one business day of being
6 released.

7 Now, in this factual situation, Mr. Signor was
8 released in April of 1994. The statute went in
9 effect in July 1994. That statute put an affirmative
10 duty on The State of South Carolina to notify
11 Mr. Signor that he needed to register. They did not.
12 He didn't get notification until 2001. We would
13 submit to The Court that if The State had complied
14 with the statute, the affirmative duty that they
15 have, that he would have registered in 1994 when the
16 statute was enacted. And therefore, he would be on
17 the register 28, going on 29 years. So that when in
18 May of 2022, the general assembly, after much
19 prompting from the State Supreme Court, came up with
20 a provision allowing an individual to get off, my
21 client would have 28, 29 years on the registry.

22 THE COURT: But that's -- you want me to take
23 judicial notice that if he'd gotten that letter, then
24 he would have registered?

25 MR. BROOKS: And if that being the case, then

1 the statute, there's a problem because there is no
2 notification by the department, by the state, in
3 compliance with the statute. And because of that, my
4 client is actually harmed, if you read it strictly in
5 terms of the new provisions that the general assembly
6 went by. That would actually pose a significant
7 harm. And actually, Judge, if The Court -- because
8 one of the things that The State cites is The Court
9 cannot exercise equity powers in what they consider
10 to be a clear and unambiguous statute. Well, the
11 problem here is, if you go back and look at the
12 notification, that that creates a problem for The
13 State because in actuality my client would be harmed.
14 And actually could open the door for potential
15 litigation. Because of the new restrictions --
16 excuse me, the new provisions of the statute that
17 allow a person to get off the registry that came in
18 effect in May of '22.

19 THE COURT: All right.

20 MR. BROOKS: So our position is that in order
21 for The Court to rectify the harm -- it's not a
22 situation where my client did not register, it's a
23 situation where The State of South Carolina did not
24 comply with its affirmative duty to let him know
25 verbally and in writing, per the statute, they had to

1 give notification. And therefore, the only thing
2 that The Court can do in order to rectify that harm,
3 is to give him credit as if he had registered in July
4 of 1994 when the registry was in existence.

5 Also, as a part of our submissions, our client
6 has no record since he got out of prison. He hadn't
7 got so much as a speeding ticket. He hadn't gotten
8 any type of harm or anything like that. And the only
9 time he started registering is when law
10 enforcement -- he had an encounter with police in
11 2001, when they told him because of his qualifying
12 conviction, that he needed to register. That's when
13 he immediately registered. He had no notice prior to
14 that. He registered, he never got in any other
15 trouble. No failure to register issues, charges ever
16 come about.

17 And, in addition to that, Judge, we have also
18 submitted not one, but two experts that are qualified
19 by the department of mental health, to render such an
20 opinion. That my client no longer needs to register.
21 Dr. Thomas Martin and Dr. Rosonna Trause [ph]. We
22 would note to The Court that if you look back at the
23 Powell case that came about June 9th 2021, that was a
24 triggering case that The Supreme Court mandated that
25 the general assembly set up a judicial review

1 process. One of the doctors in that case is also one
2 of the doctors that my client used. And that's
3 Dr. Thomas Martin.

4 So based on all what we've submitted, my
5 client's complied, strictly complied with all the
6 other provisions of the provision that will allow him
7 to terminate his registration. The problem is giving
8 him the credit for the time that he should have been
9 on the registry, not because of his fault. But
10 because of The State.

11 THE COURT: How can I -- I mean, very clearly,
12 how can I ignore the fact that it says, An offender
13 may file a request for termination after being
14 registering for, at least, 25 years?

15 MR. BROOKS: How can you go around that is
16 because you what -- what we're asking The Court to do
17 is--

18 THE COURT: I have to find that he's been
19 registered for more than 25 years to grant your
20 relief.

21 MR. BROOKS: And that's what we submitted to The
22 Court that you should do. Not because he didn't
23 register, but because The State of South Carolina and
24 its entities, based on the statute, 23-3-440,
25 mandated that they tell him in writing and verbally

1 notification. It says it clear as day that they
2 needed to do that. If they had done that, based on
3 the actions that he had done since that time, he
4 would have registered. But that's not because of
5 anything that he did. A person doesn't know they
6 have to register, that's why you have that provision
7 in there that tells The State authorities, you got to
8 let a person know. If you don't let a person know,
9 then how can you expect anybody else to even
10 register?

11 So basically, in order to correct that harm that
12 The State has done, that could potentially open the
13 door to potential civil litigation, then the best
14 thing to do is to give him credit for the time that
15 they should have told him to register. Which would
16 be back to the date that the statute was enacted in
17 July of 1994. He had gotten out of prison in April
18 of 1994. The statute doesn't say anything about, you
19 know, excuses The State from their mandated
20 affirmative duty to notify him. In writing and
21 verbally. And it's clear in the statute. The Court
22 cannot expect an individual to comply with its rules
23 but excuse The State from complying.

24 One of the cases that the solicitor cited is
25 State v. Wall. The significance in that case is that

1 is a case where you had an individual who had a
2 conviction from 1973. Who went to prison, got out
3 and in subsequent years, got into some more
4 encounters with the police in the 90's, after the
5 registry statute was enacted. His argument was, this
6 is ex post facto. Well, The Court said that that's
7 not ex post facto. So in essence, that gave The
8 State the license to be able to go back in time to
9 people who had convictions, prior to the registry's
10 enactment, to say you needed to register. Well, if
11 The State can do that, then it's obviously reasonable
12 for you to infer that The State is still got to
13 comply with its mandated duty, expressly stated, in
14 the statute, that they got to notify these people
15 verbally and in writing. Failure to do so, in order
16 to correct it--

17 THE COURT: Do you have any evidence that says
18 that they did not notify him?

19 MR. BROOKS: I have my client here willing to
20 testify.

21 THE COURT: Other than that.

22 MR. BROOKS: He got out of jail. They don't
23 have it because he got out of jail three months
24 before the statute was enacted. So it would have
25 been incumbent upon them, the burden is on them, to

1 come in and show that they notified him. If he was
2 in front of Your Honor on a failure to register case,
3 the first prong of the element is show that he had
4 notice that he had to register. Same thing applies.

5 The burden is on The State. If they don't do that --
6 and the problem, Judge, is the new provisions that
7 the general assembly came out about 10 months ago,
8 does not have any catchall phrase to protect The
9 State entities against somebody that falls into
10 Mr. Signor's realm.

11 The statute and everything as written now,
12 presupposes that a person goes to jail now, gets on
13 probation now and then those entities will tell that
14 person, you need to register. But provisions of the
15 statute does not take into account those individuals
16 who had offenses and convictions long before the
17 statute was enacted. So The State Supreme Court in
18 Wall in 2002, gave The State the ability to go back
19 and talk about these individuals. And conclude that
20 they, because of qualifying convictions, needed to
21 register. But the general assembly did not
22 contemplate when they enacted this statute for the
23 provisions of the statute in May of '22, what type of
24 duty that that would provide to The State.

25 And I submit to Your Honor, that that opens the

1 door to potential litigation for the department of
2 corrections, department of probation pardon and
3 parole and because my client and other individuals
4 who may be similarly situated, can argue, you didn't
5 tell me. Just because I got out of jail, the statute
6 doesn't provide any exclusions for that, just because
7 I got out of jail, you have an affirmative duty to
8 tell me. If you told me, I would have registered.
9 So in essence, I'm harmed because if you read it the
10 way the solicitor's talking, you cut my client out of
11 seven years. You give him those seven years, he
12 clearly falls after 25 years. And everything falls
13 into place and he'd be off the registry. If he had
14 gotten that credit, we wouldn't even be here in front
15 of you, Judge. Because Agent Ridgeway, with SLED,
16 would have gone ahead and processed his application
17 and he would be off.

18 THE COURT: All right, let me hear from the
19 state and see and I'll hear back from you.

20 MR. BROOKS: Thank you, Judge.

21 MR. THOMPSON: Your Honor, I think, you know, we
22 set out our possession fairly distinctly in the
23 brief. The statute is very clear. The language the
24 legislature used last year was extremely clear that
25 an individual had to be on the registry for 25 years

1 before they could apply or move to come off the
2 registry. The legislature could have, at that point
3 in time, gone back and added in some sort of
4 consideration for persons who had been released from
5 prison and been out of prison for some period of time
6 before they registered. The legislature chose not to
7 do that. They specifically said you have to be on
8 the registry for, at least, 25 years before you even
9 have the opportunity to apply to come off.

10 So I don't think The Court, despite what
11 Mr. Brooks' argument, I don't think The Court can
12 simply give him credit for the fact that he would
13 have registered earlier had he been given notice.
14 Which again, we're only basing this on what
15 Mr. Brooks says his client would testify to.

16 Your Honor, as far as, you know, that statute,
17 that statute -- and I'll sit here and tell you, that
18 statute was amended multiple times. And I'm not sure
19 in what year and what amendment it added in the
20 retroactive status with regard to a person that had
21 already been released and out of prison. However, it
22 was not uncommon for persons who were out of prison
23 for some period of time to subsequently get contacted
24 about registering. But that, again, that might be a
25 great argument for a declaratory judgment action that

1 allows the opportunity for some full discovery with
2 regard to when it was notified and why -- you know,
3 what led to him being notified. That might be
4 appropriate for that sort of action where SLED would
5 be involved since they're the ones that were involved
6 in maintaining -- they're the ones involved in
7 maintaining the registry.

8 For The Court's purpose today, we have the
9 statute, which is very clear. And I don't think --
10 in fact, Mr. Brooks is, you know, the initial motion
11 he filed he said that he had registered in 2003. Now
12 he's come back and amended that and said he
13 registered in 2001. So certainly there might even be
14 some gray area with regard to when Mr. Brooks was
15 notified -- excuse me, when Mr. Signor was notified
16 about registering. And I don't think, Judge, for
17 something this significant we can simply go -- go off
18 of what Mr. Brooks [verbatim] might testify to. I
19 think there needs to be the opportunity for some
20 fuller discovery in such a matter. But I think for
21 today's purposes, The Court has to go by the plain
22 language of the statute. Which says he can't apply
23 for or move for this relief until he's been on the
24 registry for, at least, 25 years.

25 THE COURT: Final word.

1 MR. BROOKS: Judge, you know, our position is
2 pretty much clear. If you want to look at the
3 statute--

4 THE COURT: I've got the statute.

5 MR. BROOKS: I pulled the other statute up that
6 I don't think The State considered all that. Judge,
7 if you want to engage in some discovery and find out
8 truly whether or not the department of corrections
9 notified my client that--

10 THE COURT: And see, I don't think -- I mean, I
11 totally understand where you're coming from and I
12 realize that your client got caught in that little
13 window of time but I think to grant the relief means
14 I'd have to add another provision to this statute,
15 which is very clear that, you know, for my purposes I
16 have to, you know, you have to show that he's been
17 registered for 25 years. There's no little gray area
18 like -- or should have registered or should have been
19 notified. I realize that other statute. But if he
20 has not been registered for 25 years, I don't believe
21 this Court has jurisdiction or ability to grant the
22 relief you're requesting. I realize that's a
23 difficult position for him but I don't believe that I
24 can grant it. So I'll deny your motion.

25 MR. BROOKS: I understand, Judge. And I

1 appreciate you letting me preserve a record.

2 THE COURT: Yeah, by all means. But -- maybe --
3 they may can do something I can't do. So anyway.

4 I'll ask you, Mr. Thompson, submit an order and
5 make sure you give Mr. Brooks a copy of it.

6 MR. THOMPSON: Yes, sir, we'll do it.

7 MR. BROOKS: Thank you, Judge.

8 MR. THOMPSON: Thank you, Judge.

9 (WHEREUPON, the proceedings were concluded.)

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CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for
the Thirteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete Transcript of Record of the
proceedings had and evidence introduced in the trial of
the captioned case, relative to appeal, in the Court of
General Sessions for Greenville County, South Carolina, on
the 10th day of March, 2023.

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

June 4, 2023

APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)
)
KENNETH W. SIGNOR,)
PETITIONER,)
VS.)
)
MARK KEEL,)
DIRECTOR, SOUTH CAROLINA)
LAW ENFORCEMENT)
DIVISION (SLED), AND THE)
STATE OF SOUTH CAROLINA,)
)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
C/A No.: 2014-CP-43-968

AFFIDAVIT OF THOMAS V. MARTIN, M.D.

I, Thomas V. Martin, M.D., am a licensed physician (psychiatrist) in the state of South Carolina. I am Board Certified in General and Forensic Psychiatry by the American Board of Psychiatry and Neurology. My practice is located at 1330 Richland Street, Columbia, SC. My practice includes the care and treatment of patients from childhood to geriatrics. I have been qualified to testify in numerous counties in South Carolina as well as the United States Federal Courts. My practice of twenty-five years has included the assessment and treatment of many sexual offenders from all counties in South Carolina.

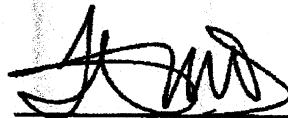
Being duly sworn I do swear and affirm the following:

- 1) Mr. Kenneth W. Signor is a 60 year old divorced male, who is a gainfully employed real estate paralegal of his self-owned business, Signor & Company, LLC for over 20 years. In 1986 in Greenville County, SC, Mr. Signor self-reported and later pled guilty to Criminal Sexual Conduct (CSC) 2nd Degree with a Minor and Lewd Act on a Minor after sexually victimizing his adopted sons, ages 13 and 14 yrs. He was subsequently sentenced to 15 years for the CSC and five years for the Lewd Act charges to run concurrently and was incarcerated from 1986 until April 1994. In 2001, Mr. Signor was required by the State to register with the SC Sex Offender Registry. He is now petitioning to have this requirement removed and be taken off the lifetime Registry.
- 2) This Examiner's assessment of this forensic case and petition included a review of Mr. Signor's criminal record, his arrest warrants and indictments, letters from Tommy R. Mims, Sheriff of Sumter County, and a letter from Major Mark Huguley, SC Law Enforcement Division. This review was followed by an individual two hour clinical

consultation and risk assessment of Mr. Signor. What follows is a summary of this Examiner's findings.

- 3) Mr. Signor has been a viable and productive citizen within his community. He has no subsequent criminal record, and suffered no emotional difficulty following the divorce from his spouse in 1985. While incarcerated in the SC Department of Corrections (SCDC), Mr. Signor successfully completed sex offender therapy and treatment. As an inmate, he gained employment as a teacher, served as an inmate administrator, committed no major infractions, and developed a closer and supportive relationship to his family.
- 4) Throughout the consultation, Mr. Signor remained candid and genuine surrounding his sexual offense history. He acknowledged full responsibility for his aberrant behaviors, had empathy for those he hurt by his actions, and understood the cognitive distortions and dysfunctional interpersonal dynamics that were in play during his time of offending. His time incarcerated was spent building healthier prosocial skills, and he has continued this pattern of model behavior in his lifestyle and work ethic since his release. Mr. Signor has never failed to register as a sexual offender in accordance to the statute.
- 5) Diagnostically, Mr. Signor does not suffer from a major mental illness. He has no history of addictive substance abuse or dependence. Furthermore, Mr. Signor does not suffer from a sexual perversion disorder, Paraphilia. He has developed healthy and long-term interpersonal relationships and has built a successful business that has not only bolstered his character development, but his contribution to society. Mr. Signor has a supportive character reference from the former Sheriff of Sumter County. He has no subsequent history of aberrant behaviors or relationships with adults or children. Mr. Signor does not require psychotherapeutic intervention or treatment.
- 6) In conclusion, Mr. Signor poses a very low risk to sexually reoffend. He has consistently demonstrated admirable and laudable behavior in his community and with his family. His annual re-registry as a sexual offender has only proven to be detrimental to Mr. Signor's clear pattern of progress and is not required as a deterrent to further sexual acting out behavior. The SC Sex Offender Registry serves to assist law enforcement and the community in monitoring those dangerous individuals who do not manage their aberrant sexual behaviors and fail to follow our social and community mores. Mr. Signor does not meet these criteria.


Further affiant sayeth not.



Thomas V. Martin, M.D.

Sworn to before me this 13th day of

January 2015



Jay G. Covington Grimsley

A Notary Public for South Carolina

My Commission Expires: 12-15-2017

SIGNOR, Kenneth W.
SSN: 265-11-5397

SENSITIVE MEDICAL MATERIAL

Sumter Therapy Center

Karen M. Zimmerman, ACSW, LISW, BCD
Diplomate in Clinical Social Work
Psychotherapist
PO Box 2667 • Sumter, SC 29151
(803) 773-3434 • Fax (803) 775-7181

October 3, 2000

To Whom This May Concern:

I am Karen Zimmerman, ACSW, LISW, BCD and I am writing in regards to Kenneth Signor who presented to me subsequent to having received correspondence from your agency asking for additional information concerning his (Mr. Signor's) psychological health, emotional health and social health as it pertains to his endeavor to obtain a pilot's license and certification.

Please accept this correspondence as verification and in support of Mr. Signor's endeavors.

Mr. Signor exhibits no risk to self or others. He is not characterologically nor personality impaired. He exhibits superior self awareness, keen judgement, astute insight and is well above average intelligence. He is well respected in this community and his business is solid and is such as to be a main stay of the city itself.

Mr. Signor exhibits no social or emotional or psychological impediments that would impair his abilities to fly safely and responsibly. On the contrary, his high caliber of comprehension, skill and competence is far above the average individual.

Mr. Signor is adept with dealing with stressful events, stressful situations and crisis events and is capable, competent and conscientious. His decision making skills and problems solving skills are precise and not impulsive. His savvy with responding and not reacting is commendable.

Finally, Mr. Signor has not, nor is he now addicted to alcohol, prescription or non prescription drugs or narcotics, nor has he endeavored to be tantalized by illicit drugs. On the contrary, Mr. Signor exhibits a need to follow the rules and is most astute and adept with doing the right thing the right way.

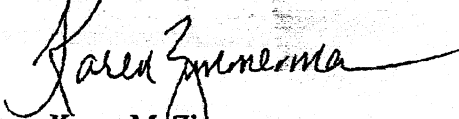
It is not often that I am asked to nor am I frequently privileged to assess and evaluate individuals of Mr. Signor's caliber.

I have been a private practice since 1985 and have treated many, many pilots and future pilots, to include those who fly jets in combat or those who fly for leisure or recreation.

It is my professional opinion and recommendation that Mr. Signor be permitted to pursue his dream and fly with respect, honor, skill and the assuredness that others believe in his talents and abilities without trepidation.

I am

Respectfully,



Karen M. Zimmerman
Psychotherapist
Diplomate in Clinical Social Work
Master Addiction Counselor
Senior Disability Analyst and Diplomate
Diplomate of the American Board of Forensic Examiners

KMZ/mm

RECEIVED

Mar 12 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
Honorable Perry H. Gravely, Circuit Court Judge

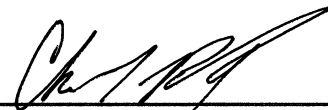
Case No: 2023-00575
Trial Court Case No.: 1986-GS-23-5233

The State of South Carolina.....Respondent
v.
Kenneth Wayne Signor, Jr.,Appellant

RECORD ON APPEAL

CERTIFICATE OF COUNSEL

I certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Charles T. Brooks, III
The Brooks Law Offices, LLC
Post Office Box 3512
Sumter, South Carolina 29150
803-418-5708
Attorney for Appellant

Dated: 3/11/2024
Sumter, South Carolina