

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

20113

Appeal to Berkeley County

R. Markley Dennis, Circuit Court Judge

CLIFFORD THOMPSON,

Appellant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

RECORD ON APPEAL

ORIGINAL

NO RESPONDENTS BRIEF FILED

RECEIVED

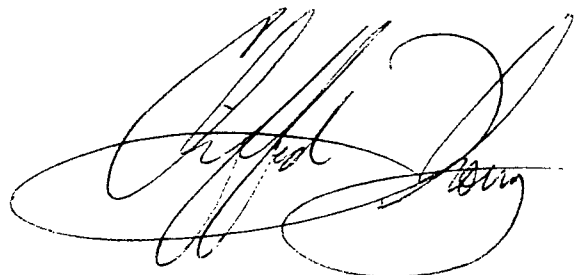
JUL 19 2011

SC Court of Appeals

Clifford Thompson
BRC1 / 274805 / CON
4460 Broad River Road
Columbia, S.C. 29210

Pro Se

Case Tracking # 2010161446



INDEX

INDEX	<u>1</u>
ORDERS	<u>2</u>
DECISIONS	<u>7</u>
PLEADINGS	<u>8</u>
TRANSCRIPT	<u>29</u>
EXHIBITS	<u>52</u>
CERTIFICATE	<u>62</u>

ORDERS

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Clifford Thompson,)

Petitioner,)

- vs-)

State of South Carolina,)

Respondent.)

Case No.: 09-CP-08-3107

ORDER

FILED
2009 DEC 15 PM 3:52
CLERK OF COURT
BERKELEY COUNTY SC

This matter concerns a petition for the Court to make a finding on the record that Mr. Thompson's kidnapping offenses should not place him on the sex offender registry upon his release in August of 2020. A hearing on the matter was convened at the Berkeley County Courthouse on November 18, 2009. Mr. Thompson appeared *pro se*. Assistant Attorney General David Spencer and Assistant Attorney General Geoffrey Chambers of the South Carolina Office of the Attorney General represented the State of South Carolina.

Under S.C. Code § 23-3-430 (C)(15), updated 2008, an individual with a conviction for kidnapping is required to register on the Sex Offender Registry unless there is an adjudication that there was no sex offense. Petitioner Thompson pled guilty in Berkeley County in 2001 to kidnapping charges related to armed robberies and received a twenty-five year sentence on the charges. When Mr. Thompson entered a guilty plea, no adjudication was made that this kidnapping conviction did not involve a sex offense listed in § 23-3-430.

The sex offender registry law in effect at the time of an incarcerated inmate's release from prison determines registration requirements. *Hazel v. State*, 377 S.C. 60, 659 S.E.2d 137 (2008). Mr. Thompson is currently incarcerated and will not be released from prison until

August of 2020. Mr. Thompson is not currently registered or listed on the sex offender registry because registration as a sex offender does not occur until an inmate is released from prison. The sex offender registry law in place at the time of his year 2020 release from prison will determine Mr. Thompson's sex offender registry status.

The sex offender registry statutes, South Carolina Code Annotated Sections 23-3-400 *et seq.* have undergone numerous changes regarding the treatment of kidnapping convictions. The continuous change in requirements triggering sex offender registration is best illustrated by amendments to § 23-3-430. Four amendments since 1994 have changed the status of kidnapping as a registration triggering offense. The first version of South Carolina's sex offender registry included kidnapping as an offense requiring sex offender registration. § 23-3-430(8) (Supp.1995). In 1996 an amendment dropped kidnapping from the list of offenses triggering sex offender registration. § 23-3-430(C) (Supp.1996). A 1998 amendment reinstated kidnapping as an offense triggering sex offender registration. § 23-3-430(C)(15) (Supp.1998). Kidnapping was again the subject of a 1999 amendment stating that a person convicted of kidnapping a person eighteen years of age or older would be required to register as a sex offender. An exception was included that does not require registration if the court made a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense. § 23-3-430(C)(15) (Supp.1999).

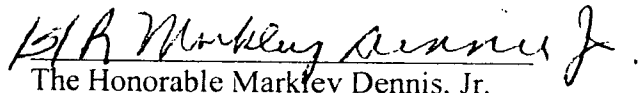
Because of the numerous changes to the sex offender registry statutes with regard to kidnapping, the status of kidnapping with regards to the sex offender registry statutes in the far distant future are unknown.

In order to maintain a legal action there must be "a real and substantial controversy which is appropriate for judicial determination, as distinguished from a contingent,

hypothetical, or abstract dispute.” *Pee Dee Elec. Coop., Inc. v. Carolina Power & Light Co.*, 279 S.C. 64, 66, 301 S.E.2d 761, 762 (1983); *Thrifty Rent-A-Car Sys., Inc. v. Thrifty Auto Sales of Charleston, Inc.*, 849 F.Supp. 1083, 1085-86 (D.S.C.1991) (stating a “court should not decide a controversy grounded in uncertain and contingent events that may not occur as anticipated or may not occur at all”). Because Mr. Thompson does not have to currently register as a sex offender and the requirement of Mr. Thompson’s registration upon his release in year 2020 is uncertain, there is no real and substantial controversy at the present time. (Any internal classification with the South Carolina Department of Corrections resulting from Mr. Thompson’s conviction is subject matter for administrative law proceedings within the South Carolina Department of Corrections.)

IT IS ORDERED that Mr. Thompson’s current petition for removal from the sex offender registry is dismissed and Mr. Thompson should be free to file this motion again upon his release if at that time the Laws of South Carolina require his registration.

AND IT IS SO ORDERED this 11th day of December, 2009.


The Honorable Markley Dennis, Jr.
Presiding Judge
Ninth Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
Case No. 2009-CP-08-3107

CLIFFORD THOMPSON,
Petitioner,

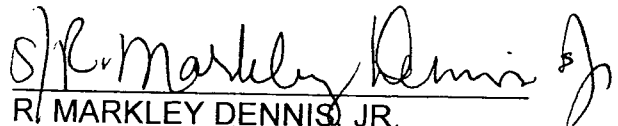
ORDER

STATE OF SOUTH CAROLINA,
Respondent.

FILED
2010 APR 13 PM 2:24
MARY P. BROUW
CLERK OF COURT
BERKELEY COUNTY, SC

This matter comes before me upon Motion to Alter and/or Amend Judgment filed by Clifford Thompson, Petitioner. After fully considering submission of the Applicant, this Court finds no need for oral argument in this matter and therefore the Motion to Alter and/or Amend Judgment is denied;

AND IT IS SO ORDERED!


R. MARKLEY DENNIS, JR.
Presiding Judge

Moncks Corner, South Carolina

April 12, 2010

DECISIONS

PLEADINGS

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

Clifford Thompson #274805,)
Plaintiff,)

v.)

State of South Carolina,)
Defendant.)

IN THE COURT OF COMMON PLEAS
9TH JUDICIAL CIRCUIT

CASE NO. _____

PETITION FOR
DECLARATORY JUDGMENT

2009 CP-08-3107

2009 SEP 11 PM 4:16
CLERK OF COURT
BERKELEY COUNTY, SC

Comes now the Plaintiff, Clifford Thompson # 274805, motioning this honorable Court for a declaratory judgment making a finding on record that Plaintiff's four (4) criminal convictions of kidnapping are not sexual in nature and are not of the nature that requires Sex Offender Registry pursuant to S.C. Code Ann. § 23 - 3 - 430 (2007), specifically § 23 - 3 - 430 (c) (15) (2007) therefore an order should be issued relieving Plaintiff of any requirements to register as a sexual offender.

CASE HISTORY

The Plaintiff, Clifford Thompson # 274805, was convicted on May 2, 2001 by Circuit Judge James E. Lockemy in Berkeley County on four (4) counts of kidnapping (indictment numbers: 00 - GS - 08 - 1100, 01 - GS - 10 - 3099, 99 - GS - 32 - 896, 00 - GS - 40 - 52302) that stem from a multi-county negotiated plea bargain to armed robbery charges arising from Charleston County, Lexington County, Richland County and Berkeley County. The disposition of the criminal case State v. Clifford Thompson, Case No.: 2004 - CP - 08 - 1041.

The entire nature of the offenses that the state solicitor's office advanced and the entire evidence the state solicitor's office proffered at the guilty plea on May 2, 2001 were that the alleged actions of Plaintiff's use of force that constitutes the four (4)

counts of kidnapping were the force necessary to complete the offense counts of armed robbery in these criminal cases. There is no allegations of nor evidence proffered that the Plaintiff's four (4) kidnapping convictions are sexual in nature nor that the four (4) kidnapping convictions have any sexual elements. Therefore Plaintiff is entitled to be exempt from Sex Offender Registry requirements.

The Plaintiff presently has recorded and posted on his criminal record that he is mandatory required to register as a sex offender pursuant to S.C.Code Ann. § 23 - 3 - 430 (2007), specifically § 23 - 3 - 430 (c) (15) (2007).

LEGAL ISSUES

First, the Court of Common Pleas has the jurisdiction to make a factual finding regarding Plaintiff's four (4) kidnapping convictions. The Court of Common Pleas has the power to make this finding pursuant to the Declaratory Judgment Act. See S.C. Code Ann. § 15 - 53 - 20 (2005) (courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed). See also James Kizer Hazel, Jr. v. State of South Carolina, Opinion No. 26449, Filed March 10, 2009, S.C. Supreme Court, Shearouse Advance Sheet.

The transcript of the plea in the criminal case State v. Clifford Thompson, Case No.: 2004 - CP - 08 - 1041 does not reflect any sexual elements to the four (4) kidnapping counts that Plaintiff is convicted. The plain language of S.C.Code Ann. § 23 - 3 - 430 (2007), specifically § 23 - 3 - 430 (c) (15) (2007) clearly states that there must be a sexual element to the kidnapping conviction before Sex Offender Registry requirements are triggered. There are no sexual elements to Plaintiff's four (4)

kidnapping convictions. Therefore Plaintiff petitions this honorable Court for declaratory judgment issued on record ordering that Plaintiff's four (4) kidnapping convictions have no sexual elements and Plaintiff is not to be required to register as a sex offender on the Sex Offender Registry.

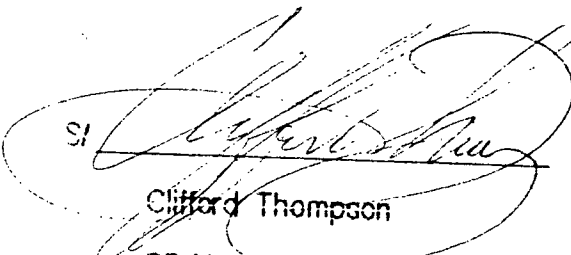
CONCLUSION

WHEREFORE the Plaintiff prays this Court issue an order on the record finding that the transcript of the plea in the criminal case State v. Clifford Thompson, Case No.: 2004 - CP - 08 - 1041 makes it clear there is no sexual element involved in the four (4) kidnapping convictions that Plaintiff is convicted. Plaintiff also prays this Court issue an order on the record finding that Plaintiff does not qualify for the Sex Offender Registry and is exempt from the Sex Offender Registry and its mandated requirements.

Respectfully Submitted,

Date: 5/8/09

SI


Clifford Thompson

BPCI / # 274805 / CON

4460 Broad River Road

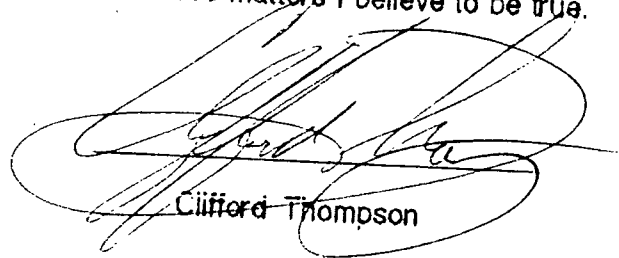
Columbia, S.C. 29210

2009 CP-08-310

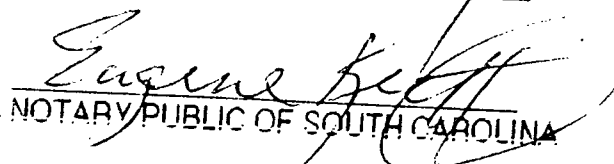
VERIFICATION

I, Clifford Thompson, being duly sworn, am the Plaintiff herein, say and depose that I have read the foregoing Petition for Declaratory Judgment, that I know the contents thereof; that the same is true of my own knowledge, except matters stated to be alleged on information and belief, and those matters I believe to be true.

Date: 5/8/09


Clifford Thompson

SWORN and SUBSCRIBED before me
this 8 day of May 2009.


NOTARY PUBLIC OF SOUTH CAROLINA

My commission expires April 4, 2016

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
	)	
Clifford Thompson,	)	Case No.: 09-CP-08-3107
	)	
Petitioner,	)	Motion to Dismiss
	)	
- vs-	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	
	)	

TO: CLIFFORD THOMPSON, PRO SE PETITIONER:

Please take notice that the South Carolina Attorney General Henry McMaster (hereinafter Attorney General), through his undersigned counsel, pursuant to Rules 12(b)(1) and 12(b)(6) of the South Carolina Rules of Civil Procedure (SCRCP), within ten (10) days or as soon thereafter as may be heard, will move the Court for an Order of dismissal of the State of South Carolina as a Respondent to this petition. Mr. Thompson (hereinafter the Petitioner) has failed to state facts sufficient to constitute a cause of action for which the Court can grant relief against the State of South Carolina because the issue is not ripe for adjudication. The Petitioner also fails to plead facts sufficient to establish subject matter jurisdiction because there is no real and substantial controversy in the present time or near future.

Ripeness:

The court does not have subject matter jurisdiction because the issue is not ripe for judicial review. The Petitioner's sex offender registration lacks ripeness for judicial review because registration will not occur until his release from prison in year 2020 and

offenses triggering sex offender registration have undergone continuous modification since the sex offender registry became law in 1994.

In order to maintain a legal action there must be "a real and substantial controversy which is appropriate for judicial determination, as distinguished from a contingent, hypothetical, or abstract dispute." *Pee Dee Elec. Coop., Inc. v. Carolina Power & Light Co.*, 279 S.C. 64, 66, 301 S.E.2d 761, 762 (1983); *Thrifty Rent-A-Car Sys., Inc. v. Thrifty Auto Sales of Charleston, Inc.*, 849 F.Supp. 1083, 1085-86 (D.S.C.1991) (stating a "court should not decide a controversy grounded in uncertain and contingent events that may not occur as anticipated or may not occur at all").

The Petitioner pled guilty on May 2, 2001 to four counts of kidnapping and six counts of armed robbery. S.C.Code Ann. § 23-3-430 (2007) provides that persons convicted of certain offenses must register as sex offenders upon their release. Currently, § 23-3-430(C)(15) (2007) requires that any person convicted of kidnapping a person eighteen years of age or older must register as a sex offender unless a finding is made on the record that the kidnapping did not include a criminal sexual offense or attempted criminal sexual offense. However, statutory requirements of offenses triggering sex offender registration have been in a continuous state of flux.

The continuous change in requirements triggering sex offender registration is best illustrated by amendments to § 23-3-430. Four amendments since 1994 have changed the status of kidnapping as a registration triggering offense. The first version of South Carolina's sex offender registry included kidnapping as an offense requiring sex offender registration. § 23-3-430(8) (Supp.1995). In 1996 an amendment dropped kidnapping from the list of offenses triggering sex offender registration. § 23-3-430(C) (Supp.1996).

A 1998 amendment reinstated kidnapping as an offense triggering sex offender registration. § 23-3-430(C)(15) (Supp.1998). Kidnapping was again the subject of a 1999 amendment stating that a person convicted of kidnapping a person eighteen years of age or older would be required to register as a sex offender. An exception was included that does not require registration if the court made a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense. § 23-3-430(C)(15) (Supp.1999).

Mr. Thompson will not be required to register as a sex offender until his scheduled release from prison in August 2020. The history of change in sex offender registry legislation indicates great potential for change in sex offender registration requirements over the next eleven years. Therefore a legal action over registration that will not materialize within the next decade involves a contingent, abstract dispute where the petitioner's duties concerning sex offender registration in the distant future are purely speculative and contingent on many factors. Mr. Thompson should litigate the issue of sex offender registration at the time of his release and required registration. In the present time The Petitioner does not present subject matter that is ripe for adjudication because distant future requirements for sex offender registration are unknown and The Petitioner will not, if at all, incur a duty to register as a sex offender until his release from prison in the distant future.

In the uncertain event that a duty to register as a sex offender does manifest, it will not do so for eleven years. Currently there is no clear and substantial controversy and the petition should be dismissed because the court lacks subject matter jurisdiction. Furthermore, the Petitioner fails to state a claim for which the court may grant relief

because there is no current duty from which the petitioner can be released and any future duty is purely speculative and subject to contingencies.

Counsel for the State of South Carolina asks the court to dismiss this petition for lack of subject matter jurisdiction under SCRCP Rule 12(b)(1) and to dismiss this petition under Rule 12(b)(6) for failure to state facts sufficient to constitute a cause of action.

Counsel for the State of South Carolina certifies pursuant to Rule 11 of the South Carolina Rules of Civil Procedure that consultation is not required for a Motion to Dismiss and is further not required with a pro se litigant.

Conclusion

For the reasons outlined above, Respondent State of South Carolina prays that this Honorable Court order as follows:

- (1) That the Motion to Dismiss this petition is granted; and
- (2) For such other relief as this Court deems necessary and proper.

[signatures on next page]

Respectfully Submitted,



Henry D. McMaster
Attorney General of the State of South Carolina

John W. McIntosh
Deputy Attorney General

David Spencer
Assistant Attorney General

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3680

October 23, 2009

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	NINTH JUDICAL CIRCUIT
	)	
Clifford Thompson,	)	Case No: <u>09-CP-08-3107</u>
Petitioner,	)	
V.	)	
State of South Carolina,	)	ANSWER TO RESPONDENT'S
Respondent.	)	MOTION TO DISMISS
	)	

The Petitioner, Clifford Thompson, respectfully makes this Answer TO RESPONDENT'S MOTION TO DISMISS.

The Respondent, in its Motion to Dismiss, asserts two defenses (1) lack of subject matter jurisdiction under SCRCP Rule 12 (b)(1) and (2) failure to state facts sufficient to constitute a cause of action under SCRCP Rule 12 (b)(6). The Petitioner makes the following showing that Respondent's defenses are meritless with regard to the issues outlined in Petitioner's Petition for Declaratory Judgement, and that dismissal of this case under Rule 12 is inappropriate and not warranted; the case should be allowed to proceed and Respondent required to file a responsive pleading to Petitioner's Petition for Declaratory Judgement.

First and foremost, this Court has complete subject matter jurisdiction to adjudicate the matters brought by the Petitioner. The Petitioner instituted a Petition for Declaratory Judgement in the Berkeley County Court of Common Pleas pursuant to S.C. Code of Law §15-53-10 and §15-53-20, commonly cited as the Uniform Declaratory Judgement Act. The plain language of the statute §15-53-20 empowers

this Court to address the issues and execute judicial determination on the claims outlined in Mr. Thompson's Petition for Declaratory Judgement which is to declare Mr. Thompson's rights, status, and legal relations under S.C. Code of Law §23-3-430(c)(15).

LEGAL ARGUMENT

The Petitioner Thompson is an incarcerated pro se litigant and is entitled to have his pleadings and motions construed liberally to ensure substantial justice to the parties. (Pleadings in a case should be construed liberally, and the trial court and appellate court must presume all well pled facts to be true so that substantial justice is done between the parties, - Overcash v. South Carolina Elec. and Gas Co., 614 S.E.2d 619; also Keiger v. Citgo, Coastal Petroleum, Inc., 482 S.E.2d 792).

To clarify Petitioner's legal position, the Petitioner Thompson makes the following expounder on the substance of his Petition for Declaratory Judgement.

The Petitioner is of the legal position that S.C. Code of Law §23-3-430 creates statutory rights which entitles him to have judicially determined whether or not a finding has been made on record that the kidnapping charges for which he has been convicted does or does not include underlying acts of criminal sexual offense or attempted criminal sexual offense. The Petitioner is of the legal and factual position that the transcript of the Petitioner's criminal convictions proceedings does not plainly state that Petitioner's kidnapping convictions does include underlying acts of criminal sexual offense or attempted criminal

sexual offense nor does the transcript of the Petitioner's criminal convictions plainly state that Petitioner's kidnapping convictions does not include underlying acts of criminal acts of criminal sexual offense or attempted criminal sexual offense or attempted criminal sexual offense. This judicial determination has not been made by a court of competent jurisdiction. The Petitioner is entitled pursuant to the Uniform Declaratory Judgement Act and to statutory rights created by §23-3-430, to have declared by a court of competent jurisdiction whether are not the alledged underlying actions of the Petitioner's kidnapping convictions are such that the underlying actions constitute a criminal sexual offense or attempted criminal sexual offense as a matter of law and fact. It is this right to the judicial determination of the nature of the underlying actions of the kidnapping convictions that Petitioner Thompson seeks and is the heart of Petitioner Thompson's Petition for Declaratory Judgement. Once the judicial determination of whether Petitioner's alledged underlying actions that gave rise to the kidnapping convictions are non-sexual or sexual in nature have been made, then it will be self-evident whether Petitioner is required to register as a sex offender.

The real and substantial dispute of whether Petitioner's alledged underlying actions of his kidnapping convictions are sexual or non-sexual in nature is ripe and ready for judicial determination by a court of competent jurisdiction. The Petitioner Thompson is of the position that the alledged underlying actions of his kidnapping convictions are only actions that constitute the force to complete the armed robbery convictions- these actions are non-sexual in nature. The

Respondent is of the kidnapping convictions are sexual in nature. The Court transcripts of the solicitor's office allegations of the kidnappings are available, the dates are certain, the events are plainly identifiable. There are no uncertainties that would deprive this Court of the ability to issue an appropriate judicial determination of whether Petitioner Thompson's kidnapping convictions include underlying actions of a sexual nature.

CONCLUSION

The Petitioner has demonstrated and outlined in this motion and in his Petition for Declaratory Judgement that there is a real and substantial controversy between the two parties as to whether the alledged underlying actions of Petitioner Thompson's kidnapping convictions are non-sexual or sexual in nature, and this controversy is appropriate for judicial determination pursuant to §15-53-10, §15-53-20 and §23-3-430 and all other applicable laws and rules of South Carolina and the United States of America. Summary Dismissal is wholly inappropriate and Respondent is precluded from summary dismissal relief on the grounds asserted in its motion to dismiss, SCRPC Rule 12 (b)(1) and SCRPC Rule 12 (b)(6).

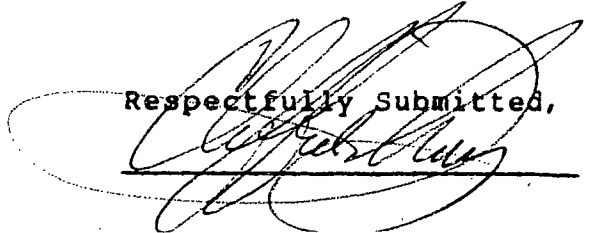
WHEREFORE, Petitioner prays this Honorable Court for the following relief:

- 1) Deny Respondent's Motion to Dismiss with prejudice.
- 2) Order Respondent to file a responsive brief to Petition for Declaratory Judgement.
- 3) Grant Petitioner's Petition for Declaratory Judgement.
- 4) Any other relief deemed just.

Date:

November 10, 2009

Respectfully Submitted,



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
	)	
Clifford Thompson,	)	
Petitioner,	)	Case No.: <u>09-CP-08-3107</u>
V.	)	
State of South Carolina,	)	
Respondent.	)	
	)	

CERTIFICATE OF SERVICE

I, Clifford Thompson, do certify that I have served two (2) copies of this motion "Answer To Respondent's Motion To Dismiss," one on the Berkeley County Clerk of Court and one on Respondent's attorney of record Henry McMaster by depositing to the Broad River Prison mailroom personnel, postage pre-paid for U.S. mail, this 10 day of November 2009.

Mailed and addressed to the following:

1) Berkeley County Clerk of Court
P.O. BOX 219
Moncks Corner, S.C. 29461-0219

2) Henry McMaster
Attorney General of S.C.
P.O. BOX 11549
Columbia, S.C. 29211

SWORN and Subscribed before me,
this 10th day of November 2009.

Susan D. Johnson
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires
My Commission Expires: March 5, 2018

Clifford Thompson
Clifford Thompson

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Clifford Thompson,)
Petitioner,)

Case No.: 09-CP-08-3107

v.)
State of South Carolina,)
Respondent.)

MOTION TO ALTER AND/OR
AMEND JUDGEMENT
PURSUANT TO RULE 59(e)

COMES NOW Petitioner Clifford Thompson respectfully motioning this Court to Alter and/or Amend the 12/11/09 written judgement in the case, Clifford Thompson v. State of South Carolina, Case No. 09-CP-08-3107, pursuant to Rule 59(e) to specifically address the following issues that were ruled upon by this Court at the November 18, 2009 judicial proceedings but were not included in this Court's December 11, 2009 written order. Petitioner received actual notice of the judgement from Respondent on March 15, 2010 via certified U.S. Postal Mail. The ten (10) day to file 59(e) triggers from the March 15, 2010 date of actual notice.

- 1) Petitioner stylized and presented his issues at the November 18, 2009 court proceedings as an action for declaratory judgement, specifically to declare / determine whether or not the evidence represented by the trial transcript of the prosecution's case theory attributing actions₂ to Petitioner in Petitioner's

kidnapping convictions are sexual in nature pursuant to S.C. Code § 23-3-430, specifically § 23-3-430(c)(15). Petitioner did not stylize nor presented his issues at the November 18, 2009 court proceedings as an action for writ of mandamus. A mandamus is issued to compel a public official to perform a ministerial duty, and only when there is a specific right to be enforced, a positive duty to be performed, and no other available legal remedy. (See Miller v. State, 659 SE2d 492, Wilson v. Preston, 662 SE2d 580, City of Rock Hill v. Thompson, 563 SE2d 101). The principles of mandamus are not at issue in this case, nor has Petitioner advance any principles of mandamus to argue his position. Petitioner motions this Court to amend this determination in its written order.

2) This Court ruled as a matter of law at the November 18, 2009 court proceeding that this Court is not empowered to judicially determine / declare whether or not the evidence represented by the trial transcript of the prosecution's case theory attributing actions to Petitioner in Petitioner's kidnapping convictions are sexual in nature pursuant to S.C. Code § 23-3-430, specifically § 23-3-430(c)(15). This Court specifically ruled as a matter of law that the power to declare / determine whether or not Petitioner's attributed actions in Petitioner's kidnapping convictions are sexual in nature pursuant to S.C. Code § 23-3-430 and § 23-3-430(c)(15) rest solely with Petitioner's original sentencing judge, Judge James Lockemy. This Court did note that Judge James Lockemy now sits on S.C. Court of Appeals.

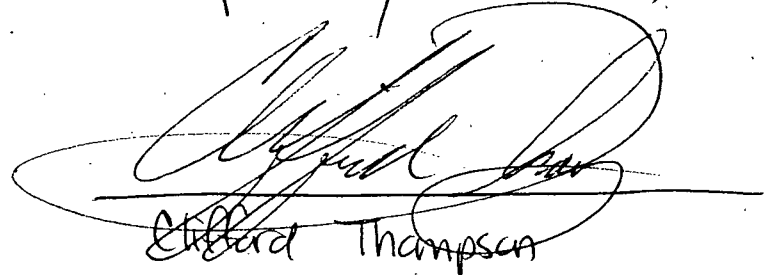
24

- 3) This Court ruled as a matter of law at the November 18, 2009 court proceeding that this Court lacks subject matter jurisdiction to judicially determine the issue of the nature of the kidnapping offenses because such judicial determination is exclusively controlled by Al-Shabazz v. State, 527 SE2d 742.
- 4) This Court ruled as a matter of law at the November 18, 2009 court proceeding that this Court is not empowered to determine whether or not the nature of Petitioner's kidnapping convictions are sexual in nature because only the original sentencing judge, Judge James Lockemy, can make this judicial finding, and this judicial findings by Judge Lockemy must have been made at the time of Petitioner's conviction and sentencing.
- 5) This Court ruled as a matter of law at the November 18, 2009 court proceeding that Petitioner's issues are not ripe for judicial determination because the controversy will only arise at the time of Petitioner's release from custody.

WHEREFORE Petitioner respectfully motions this Court to alter and/or amend its written order to specifically address the presented issues pursuant to Rule 59 (e).

Date: 3/23/10

Respectfully Submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Clifford Thompson', is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

Clifford Thompson
BRCI/274805/ CON 121
4460 Broad River Rd.
Columbia, SC 29210

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

Clifford Thompson,
Petitioner,

v.
State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Case No.: 09-CP-08-3107

CERTIFICATE OF SERVICE

I, Clifford Thompson, do certify that I have served two (2) copies of this motion "Alter and/or Amend Judgement Pursuant to Rule 59 (e)," one on the Berkeley County Clerk of Court and one on Judge R. Markley Dennis, Jr by depositing both copies to the Broad River Prison mailroom personnel, postage pre-paid for U.S. mail, this 23 day of March 2010. Mailed and addressed to the following:

1) Berkeley Canty Clerk of Court
P.O. Box 219
Moncks Corner, SC 29461-0219

2) Judge R. Markley Dennis, Jr
P.O. Box 1800
Moncks Corner, SC 29461

SWORN and Subscribed before me
this 23 day of March 2010.

Eugene Beatty
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires April 4, 2016

My Commission Expires: _____ 27

Signed: Clifford Thompson
Clifford Thompson

Clifford Thompson,
Petitioner

Case No.: 09-CP-08-3107

v.
State of South Carolina,
Respondent.

CERTIFICATE OF SERVICE

I, Clifford Thompson, do certify that I have served one (1) copies of this motion "Alter and/or Amend Judgement Pursuant to Rule 59(e)", on Respondent State of South Carolina by depositing a copy to the Broad River Prison mailroom personnel, postage pre-paid for U.S. mail, this 25 day of March 2010. Mailed and addressed to Respondent's attorney of record:

Attorney General of South Carolina
Dennis Bldg., Box 11549
Columbia, SC 29211

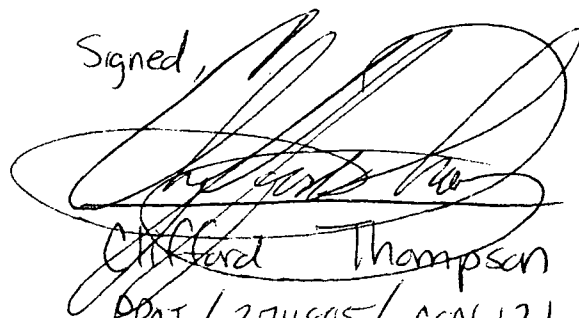
SWORN and Subscribed before me
this 25th day of March 2010

Susan D. Johnson

NOTARY PUBLIC FOR SOUTH CAROLINA My Commission Expires
March 5, 2018

My Commission Expires: _____

Signed,


Clifford Thompson

ECI/274805/CON 121
4460 Broad River Rd.
Columbia, SC 29210

TRANSCRIPT

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BERKELEY	)	COURT OF COMMON PLEAS
Clifford Thompson,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 09-CP-08-3107
	)	
State of South Carolina,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned case was heard on November 18, 2009, in Courtroom E of the Berkeley County Courthouse, 300 California Avenue, Moncks Corner, South Carolina; attended by counsel, as follows:

APPEARANCES:

Clifford Thompson
Appearing *Pro Se*

Dave Spencer, Assistant Attorney General
Jeffrey Chambers, Assistant Attorney General
OFFICE OF ATTORNEY GENERAL
P O Box 11549
Columbia, SC 29211
Appearing for State of South Carolina

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 901
Johns Island, South Carolina 29457
dGarrison@sccourts.org

1 THE COURT: I think the parties are
2 all here in re: Clifford Thompson. There is a
3 Motion to dismiss by the State?

4 MR. SPENCER: That's right.

5 THE COURT: Okay.

6 MR. SPENCER: Your Honor, next to
7 me is Mr. Jeffrey Chambers. He actually was
8 sworn in on Monday.

9 THE COURT: With my clerk.

10 MR. CHAMBERS: We were classmates.

11 MR. SPENCER: He will be making
12 the argument today.

13 COURT REPORTER: Your name, sir?

14 MR. SPENCER: David Spencer.

15 COURT REPORTER: Who do you
16 represent, Mr. Spencer?

17 MR. SPENCER: State of South
18 Carolina.

19 (MR. THOMPSON ENTERS COURTROOM)

20 THE COURT: Good morning.

21 CLIFFORD THOMPSON, *Pro Se*: Good
22 morning, sir. How are you doing?

23 THE COURT: I'm doing great, sir.

24 You all can be seated. You are Clifford
25 Thompson?

1 CLIFFORD THOMPSON, *Pro Se*: Yes,
2 sir.

3 THE COURT: Mr. Thompson, we are here
4 today, this is an action that has been filed by
5 you in the Court of Common Pleas, Case Number
6 09-CP-08-3107.

7 CLIFFORD THOMPSON, *Pro Se*: Yes,
8 sir.

9 THE COURT: There is a petition
10 styled as a Petition for Declaratory Judgment.
11 We are here today on the State's Motion to
12 dismiss. The procedure will be that I am going
13 to hear first from the State and then I will
14 allow you a full opportunity to respond to his
15 argument.

16 CLIFFORD THOMPSON, *Pro Se*: Thank
17 you.

18 THE COURT: Then of course I will
19 allow the State an opportunity to reply to any
20 argument that you make. Okay. I'll be happy to
21 hear from you.

22 JEFFREY CHAMBERS: Yes, Your Honor,
23 may it please the Court, Mr. Thompson is asking
24 for a -- is petitioning the Court to find that
25 -- or to make a finding that, uh, his actions

Clifford Thompson v. State of South Carolina
Case No. 09-CP-08-3107
Hearing of November 18, 2009
Before The Honorable R. Markley Dennis, Jr.

4

1 leading to his incarceration does not involve a
2 sex offense for the purpose of his registration
3 status with the sex offender registry.

4 THE COURT: Right.

5 JEFFREY CHAMBERS: Our current
6 issue with that is that in order to maintain an
7 action in the State of South Carolina, we need a
8 substantial -- a real substantial controversy
9 and not something that is hypothetical, abstract
10 and in the future.

11 With regard to the Sex Offender
12 Registry statute, Section 23-3-430, there have
13 been multiple changes in regards to kidnaping
14 over the past ten years. At one time kidnaping
15 was on the statute and then it was taken off of
16 the list of offenses and then put back on. Then
17 several different, uh, -- several different
18 variations of the requirements of kidnaping to
19 trigger registry on the Sex Offender Registry
20 have occurred over the past ten years.

21 We don't -- Mr. Thompson will not be
22 released from prison until the year 2020. The
23 record of his sentencing sheets, as well as the
24 South Carolina Department of Corrections
25 incarcerated inmate, uh, data, states his

1 release date as August of 2020.

2 If we -- if we make a finding as to his
3 status n the registry today, that will -- that
4 may cause an issue if the Sex Offender Registry
5 statutes are significantly different at the time
6 of his release. This finding may be moot. Or
7 that reason, we ask that the Court dismiss this
8 at this time due to ripeness of the issue and
9 take it up at a time closer to his release, at
10 which time we would have a clear and concrete
11 view of the nature of the statute at that time
12 and what Mr. Thompson will have to comply with.

13 THE COURT: What was the status the
14 day he was convicted, did the statute require
15 registration?

16 JEFFREY CHAMBERS: The statute --
17 he pled guilty in 2001. I believe at that time
18 it required an adjudication to avoid
19 registration for kidnaping. That did not occur
20 at his guilty plea.

21 THE COURT: So without the
22 adjudication then he was required -- at that tie
23 he was required to register?

24 JEFFREY CHAMBERS: Yes, sir.

25 THE COURT: All right. Thank you

1 very much.

2 THE COURT: Be happy to hear from
3 you, Mr. Thompson.

4 CLIFFORD THOMPSON, *Pro Se*: Thank
5 you, Your Honor. How are you?

6 THE COURT: I am well, sir. Thank
7 you.

8 CLIFFORD THOMPSON, *Pro Se*: I
9 timely responded to the Motion to dismiss. I
10 don't know if you received it or not.

11 THE COURT: Well, that -- it's
12 incorporated -- obviously any response that you
13 have -- I have the entire file here with me, so
14 whatever has been filed is a part of a record
15 and you're entitled to rely on your request, if
16 that is what you want to do.

17 CLIFFORD THOMPSON, *Pro Se*: Yes,
18 because -- I just want to make sure that it is
19 in the file?

20 THE COURT: It is incorporated fully
21 for purposes of review should that become
22 necessary.

23 CLIFFORD THOMPSON, *Pro Se*: Okay.
24 The respondent moved for a dismissal of this
25 action on two grounds. Specifically they cite

1 Rule 12(b)(1) and Rule 12(b)(6).

2 12(b)(1), they have asserted that this
3 court lacks subject matter jurisdiction over
4 this matter. Secondly they argue a failure to
5 state a claim sufficient to constitute a cause
6 of action.

7 THE COURT: Right.

8 CLIFFORD THOMPSON, *Pro Se*: In my
9 petition, I asked for two things. I asked for a
10 judicial determination of whether or not the
11 alleged actions of my conviction were sexual in
12 nature.

13 THE COURT: Well, but that's --

14 CLIFFORD THOMPSON, *Pro Se*: I
15 asked for ---

16 THE COURT: The problem that you have
17 -- first of all, that's not a -- it really is
18 not an issue because the statute, without an
19 adjudication requires -- it doesn't matter
20 whether it was sexual in nature, the statute
21 prescribed that that would have to be done for a
22 conviction for kidnaping. So it's not an issue
23 for me to determine. The law was the law.

24 CLIFFORD THOMPSON, *Pro Se*: There
25 is ---

1 THE COURT: The question is, Mr.
2 Thompson, -- obviously there is an argument that
3 I think could be made, -- it's a little bit
4 premature -- that the State may be able to make
5 that 'well, at the time of your conviction it
6 would require you to register.' I can make
7 that finding today. I can state as a matter of
8 law that you were required to register and
9 dismiss this action, or make that finding.

10 The problem that I have is that if the
11 statutes change between now and your release
12 date and it's beneficial to you, there's an
13 argument that notwithstanding that you were
14 required to register on the day of your
15 conviction that you are entitled to the benefits
16 of the law. That's why I asked whether you were
17 required to register at the time of your
18 conviction. You were. The statute clearly
19 required that, because of the conviction for
20 kidnaping.

21 It doesn't have to be -- you're
22 confusing this with -- unfortunately -- with the
23 one that -- assault and battery of a high and
24 aggravated nature where it requires a finding
25 that it's sexual in nature. This doesn't

1 require that. It requires the opposite. It
2 requires that you're not -- it requires -- at
3 the time of your conviction it required Judge
4 Lockamee to make a finding and place that on the
5 record that you were not required to register.
6 He didn't do that.

7 CLIFFORD THOMPSON, *Pro Se*: I
8 understand, Your Honor. When I read the ---

9 THE COURT: Sir, you don't have a
10 declaratory judgment action because there is no
11 justiciable controversy today.

12 CLIFFORD THOMPSON, *Pro Se*: Can I
13 tell you my ---

14 THE COURT: No, because there is no
15 need to.

16 CLIFFORD THOMPSON, *Pro Se*: I
17 understand that. I just want to tell you my
18 legal position.

19 THE COURT: Sir, you don't need --
20 your legal position is that you brought an
21 action for declaratory judgment. Okay?

22 CLIFFORD THOMPSON, *Pro Se*: Yes.

23 THE COURT: And that framed what we
24 are to do.

25 CLIFFORD THOMPSON, *Pro Se*:

Clifford Thompson v. State of South Carolina
Case No. 09-CP-08-3107
Hearing of November 18, 2009
Before The Honorable R. Markley Dennis, Jr.

10

1 Exactly.

2 THE COURT: And you have some
3 interesting points. Okay?

4 CLIFFORD THOMPSON, *Pro Se*: Yes,
5 sir.

6 THE COURT: In fact, I will tell you
7 that I sat here in this box -- not your case but
8 another case -- where I heard from lawyers
9 arguing for about two hours on an issue
10 concerning governmental interactions, Charleston
11 County and Berkeley County. Interesting case,
12 really was. Thought about it, ruled on it.

13 You know what the Court of Appeals did?

14 CLIFFORD THOMPSON, *Pro Se*: No,
15 sir.

16 THE COURT: They reversed it and
17 said, 'Nope, you were wrong, Judge.'

18 You know why? They said that there is
19 no justiciable controversy, there is no
20 controversy. It doesn't matter how interesting
21 the legal arguments were.

22 To avail yourself of a declaratory
23 judgment, there has to be some controversy.
24 At this point we don't know what it is.

25 CLIFFORD THOMPSON, *Pro Se*: I can ---

1 THE COURT: Sir, you don't have a
2 position.

3 CLIFFORD THOMPSON, Pro Se: I
4 would like ---

5 THE COURT: You're premature. You're
6 early.

7 CLIFFORD THOMPSON, Pro Se: No,
8 what it says -- can I just?

9 THE COURT: What is it that you want
10 to say?

11 CLIFFORD THOMPSON, Pro Se: I want
12 to say this, that they have made a stance right
13 now. Do you understand me?

14 THE COURT: No, I don't.

15 CLIFFORD THOMPSON, Pro Se: They
16 are making a stance that my action constituted a
17 criminal offense.

18 THE COURT: Sir, you ---

19 CLIFFORD THOMPSON, Pro Se: So ---

20 THE COURT: --- pled guilty. Let me
21 ask you a question.

22 CLIFFORD THOMPSON, Pro Se: Okay.

23 THE COURT: Maybe I have got it
24 wrong. Didn't you plead guilty to kidnaping?

25 CLIFFORD THOMPSON, Pro Se: Yes, I

1 did.

2 THE COURT: Do you understand that
3 the statute, the law, at that time said that
4 because of that conviction that you are required
5 to register unless the Court says otherwise.

6 CLIFFORD THOMPSON, *Pro Se*: A
7 court. Exactly.

8 THE COURT: Well, they didn't say
9 otherwise.

10 CLIFFORD THOMPSON, *Pro Se*: The
11 statute says unless "a court" ---

12 THE COURT: That's right.

13 CLIFFORD THOMPSON, *Pro Se*: So
14 that is why ---

15 THE COURT: "A court" is a presiding
16 judge.

17 CLIFFORD THOMPSON, *Pro Se*: It
18 doesn't say that, Your Honor.

19 THE COURT: Well, sir, that's what it
20 means.

21 CLIFFORD THOMPSON, *Pro Se*: If ---

22 THE COURT: So the problem that you
23 have is that you don't want to appeal this now
24 -- because you know what is going to happen?
25 They are going to agree that there is no issue

1 yet. The reason for it is quite simple, sir.

2 The law may change. What we do today is not

3 going to affect the law.

4 CLIFFORD THOMPSON, *Pro Se*: I

5 understand ----

6 THE COURT: And I can't determine
7 whether you should be required to register or
8 not, because I don't know what the law is going
9 to be.

10 CLIFFORD THOMPSON, *Pro Se*:

11 Exactly. Your Honor, I am asking a different
12 legal question.

13 THE COURT: I appreciate it but you
14 can't ask a question. There is no controversy.

15 CLIFFORD THOMPSON, *Pro Se*: I ---

16 THE COURT: You want an advisory
17 opinion.

18 CLIFFORD THOMPSON, *Pro Se*: No.

19 THE COURT: Well, then, what is it
20 that you want?

21 CLIFFORD THOMPSON, *Pro Se*: Let me
22 explain to you, if I may.

23 THE COURT: All right, I will give
24 you one more chance.

25 CLIFFORD THOMPSON, *Pro Se*: All

1 right. You are employed to determine my
2 status.

3 THE COURT: No, I'm not.

4 CLIFFORD THOMPSON, *Pro Se*: Yes,
5 you are.

6 THE COURT: No, I am not, sir.

7 CLIFFORD THOMPSON, *Pro Se*: Okay.

8 THE COURT: So what is your next
9 point?

10 CLIFFORD THOMPSON, *Pro Se*: Okay.

11 The nature of my offense can be determined from
12 my transcript.

13 THE COURT: No, sir.

14 CLIFFORD THOMPSON, *Pro Se*: It
15 doesn't have anything to do with ---

16 THE COURT: It doesn't matter, sir,
17 because Judge ---

18 CLIFFORD THOMPSON, *Pro Se*: But it
19 ---

20 THE COURT: You're wrong. Thank you.
21 The record is there. The transcript says Judge
22 Lockamee did not find that you should not
23 register. Do you agree with me?

24 CLIFFORD THOMPSON, *Pro Se*: It
25 doesn't say that he does find ---

1 THE COURT: Do you agree with me?

2 CLIFFORD THOMPSON, *Pro Se*: It

3 says ---

4 THE COURT: Do you agree with me that
5 Lockamee did not find that you did not have to
6 register?

7 CLIFFORD THOMPSON, *Pro Se*: He
8 didn't make any finding whether ---

9 THE COURT: That's correct.
10 Therefore, the statute controls.

11 CLIFFORD THOMPSON, *Pro Se*: And
12 the statute says that a court may make ---

13 THE COURT: Thank you.

14 CLIFFORD THOMPSON, *Pro Se*: ---
15 that determination.

16 THE COURT: It didn't.

17 CLIFFORD THOMPSON, *Pro Se*: That's
18 what I am asking of you, sir.

19 THE COURT: It didn't. So you don't'
20 have to. It doesn't say "it shall", it says it
21 "may". It chose not to. The statute controls.
22 Thank you, sir.

23 CLIFFORD THOMPSON, *Pro Se*: But I
24 am asking ---

25 THE COURT: Your action is dismissed.

1 CLIFFORD THOMPSON, *Pro Se*: ---

2 the Court to make a determination ---

3 THE COURT: Your action is dismissed.

4 There is no justiciable controversy.

5 If you will, prepare the appropriate
6 Order, please.

7 JEFFREY CHAMBERS: Thank you.

8 THE COURT: Good luck, sir. You will
9 have an opportunity to argue that to the next
10 level.

11 CLIFFORD THOMPSON, *Pro Se*: I
12 would ask that ---

13 THE COURT: Maybe they will say that
14 you are entitled to you.

15 CLIFFORD THOMPSON, *Pro Se*: I
16 would like to ask you a question, I had two
17 questions. I understand that you ---

18 THE COURT: And the two legal
19 questions, you don't have a basis for it, sir.

20 CLIFFORD THOMPSON, *Pro Se*: You
21 aren't giving me ---

22 THE COURT: No, you don't. You
23 don't, sir, -- because there is no controversy.
24 You have styled it as a declaratory judgment.
25 There has to be a justiciable controversy.

1 There is none. Thank you.

2 CLIFFORD THOMPSON, *Pro Se*: How do

3 I get a determination of ---

4 THE COURT: Thank you, sir.

5 CLIFFORD THOMPSON, *Pro Se*: --- of

6 my ---

7 THE COURT: Thank you, sir. Have a

8 good day.

9 CLIFFORD THOMPSON, *Pro Se*: Your

10 Honor, ---

11 THE COURT: Have a good day.

12 CLIFFORD THOMPSON, *Pro Se*: May I

13 say something, Your Honor.

14 THE COURT: Yes, sir.

15 CLIFFORD THOMPSON, *Pro Se*: Thank

16 you for your time.

17 THE COURT: I appreciate it and I

18 wish you luck in your endeavors.

19 CLIFFORD THOMPSON, *Pro Se*: When

20 can we make that determination, Your Honor?

21 THE COURT: The day that you get

22 ready to be released and there is an issue, then

23 you can maybe bring that case. Possibly.

24 CLIFFORD THOMPSON, *Pro Se*: Sir,

25 if you look at the transcript, there ---

1 THE COURT: Sir, they will look to
2 the transcript the day that you have a
3 controversy. You don't have one today.

4 Because the law can change and I don't
5 know what the law is going to be in -- what was
6 the date, 2020.

7 JEFFREY CHAMBERS: That's right,
8 Your Honor.

9 THE COURT: In 2020 the statute may
10 say that kidnaping does not have to register.

11 CLIFFORD THOMPSON, *Pro Se*: Right
12 now I am suffering. I am suffering ---

13 THE COURT: No, you are not suffering
14 a thing.

15 CLIFFORD THOMPSON, *Pro Se*: Yes, I
16 did.

17 THE COURT: No, sir, you are not.
18 Thank you sir.

19 CLIFFORD THOMPSON, *Pro Se*: If you
20 look on ---

21 THE COURT: Let me ask you a
22 question, sir? Are you registered?

23 CLIFFORD THOMPSON, *Pro Se*: I am
24 ---

25 THE COURT: Answer my ---

1 CLIFFORD THOMPSON, *Pro Se*: Yes.

2 THE COURT: --- my question, are you
3 registered as a sex offender?

4 CLIFFORD THOMPSON, *Pro Se*: Yes.

5 THE COURT: You are registered as sex
6 offender?

7 CLIFFORD THOMPSON, *Pro Se*: Yes.

8 Look at my SCDC internet screen. You've got it
9 right there. It says that I am registered sex
10 offender.

11 THE COURT: You are registered?

12 CLIFFORD THOMPSON, *Pro Se*:

13 (Affirmative nod), look at the screen. It is
14 right there.

15 MR. SPENCER: Your Honor, he is
16 not registered on the sex offender registry.

17 THE COURT: Thank you.

18 MR. SPENCER: He is listed on the
19 South ---

20 THE COURT: They classified you.

21 MR. SPENCER: --- Carolina ---

22 THE COURT: They classified you.

23 That, sir, is a -- that is another issue
24 altogether. That's an administrative issue that
25 you can take up through the administrative

1 courts.

2 CLIFFORD THOMPSON, *Pro Se*: The ---

3 THE COURT: You can file whatever you
4 want for the classification.

5 CLIFFORD THOMPSON, *Pro Se*: I ---

6 THE COURT: You are not on the sex
7 offender registry today. Thank you, sir.

8 CLIFFORD THOMPSON, *Pro Se*: I ---

9 THE COURT: The day that you are,
10 maybe there will be justiciable controversy.
11 You are not today.

12 CLIFFORD THOMPSON, *Pro Se*: Your
13 Honor, the sheet that I am ---

14 THE COURT: Thank you, sir.

15 CLIFFORD THOMPSON, *Pro Se*: They
16 tell me that ---

17 THE COURT: Thank you, sir. Thank
18 you, sir. It's an *Al-Shabazz* issue, sir. You
19 know what that means. You file it with the
20 administrative court. Thank you, sir.

21 JEFFREY CHAMBERS: Thank you, Your
22 Honor.

23 THE COURT: Thank you, sir. You all
24 have a good day. Good luck, Mr. Chambers. I
25 look forward to working with you, sir. I look

1 forward to working with you, sir.

2 Congratulations.

3 (HEARING CONCLUDED)

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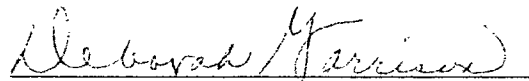
24

25

CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the hearing
held before The Honorable R. Markley Dennis,
Jr., on November 18, 2009;

I further certify that I am neither kin nor
counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison

Circuit Court Reporter

9th Judicial Circuit

Charleston, South Carolina

September 22, 2010

EXHIBITS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Judge

Case No. 09 - CP - 08 - 3107

Clifford Thompson,

Appellant,

V.

State of South Carolina

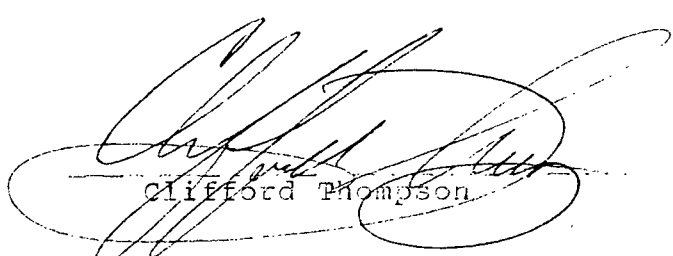
Respondent.

NOTICE OF APPEAL

Clifford Thompson appeals the order of the Honorable Judge R. Markley Dennis Jr. dated December 11, 2009 and April 12, 2010. The December 11, 2009 order is a judgment of Dismissal on a Petition for Declaratory Judgment. The April 12, 2010 order is a judgment of Denied on a motion to Alter and/or Amend Pursuant to Rule 59 (e). Appellant received actual written notice of entry of the December 11, 2009 order on March 15, 2010 via certified U.S. Postal Mail from Respondent. Appellant received actual written notice of entry of the April 12, 2010 order on April 19, 2010 via regular U.S. Postal Mail from Berkeley County Clerk of Court Mary P. Brown. The Thirty (30) days to file notice of appeal triggers from the April 19, 2010 date of actual notice of the denial of the Rule 59 (e) motion. This Notice of Appeal is timely and comports with SC Rules of Court and other applicable rules and laws.

Date:

May 11, 2010


Clifford Thompson

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

R. Mackley Dennis, Jr., Circuit Judge

Case No. 09 - CP - 08 - 3107

Clifford Thompson, Appellant,

v.

State of South Carolina Respondent.

CERTIFICATE OF SERVICE

I, Clifford Thompson, do certify that I have served two (2) copies of this Notice of Appeal, one on the S.C. Courts of Appeal and one on Respondent State of South Carolina by depositing both copies to the Broad River Prison mail room personally, postage pre-paid for U.S. mail, this 11th day of May 2010. Mailed and addressed to the following:

1) S.C. Courts of Appeals
1015 Center St., Box 11529
Columbia, SC 29211

2) Attorney General of SC
Dennis Bldg., Box 11549
Columbia, SC 29211

SIGNED and SUBSCRIBED before me:

this 11 day of May 2010.

Eugene Keefe Jr.
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: My Commission Expires April 4, 2016

Clifford Thompson
Clifford Thompson
4450 Broad River Rd.
Columbia, SC 29210

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

COURT OF GENERAL SESSIONS

00-GS-08-1099

00-GS-08-1100

00-GS-40-52300

00-GS-40-42215

00-GS-40-42176

00-GS-40-52302

The State of)
South Carolina)

vs.)

Clifford P. Thompson,)
Defendant.)

01-GS-10-2407

01-GS-10-3099

99-GS-32-892

99-GS-32-886

TRANSCRIPT OF RECORD

May 2, 2001

Moncks Corner, South Carolina

B E F O R E:

THE HONORABLE JAMES E. LOCKEMY; Judge.

A P P E A R A N C E S:

Mr. Blair Jennings, Deputy Solicitor
Attorney for the State

Mr. Steve Davis, Esq.
Attorney for the Defendant

Bonnie M. Britt
Official Court Reporter

1 THE COURT: All right. At this time, Mr. Jennings,
2 tell me about these incidents.

3 MR. JENNINGS: Thank you, Your Honor. May it please
4 the Court. I guess, I can go in chronological order. That
5 would be the easiest. That begins in Lexington County.
6 That first armed robbery and kidnapping was on November
7 11th of 1998. I believe, it was at a Sleep Inn. Mr.
8 Thompson and a co-defendant went into the Sleep Inn,
9 presented a gun to the clerk, and stole approximately \$300.

10 At this one, and at each of the armed robberies, the
11 clerk was bound either with duct tape or rope, which was
12 sort of an interlinking theme through all of the armed
13 robberies. But the clerk was tied up, which is the basis
14 for the kidnapping. Mr. Thompson and the co-defendant,
15 it's my understanding, were apprehended shortly after the
16 armed robbery took place, and had the gun with him that was
17 used in the robbery as well as the money that was taken.
18 At that time, he was arrested on the armed robbery and
19 kidnapping charges, and later bonded out of jail, and
20 that's when the cases in Richland County took place.

21 The first of which, took place on August the 27, 1998,
22 that was at the Days Inn in Columbia, which was the same
23 type of incident. ~~They were the and the co-defendant, who was~~
24 ~~Mr. Chadwick, went into the Days Inn, bound the clerk,~~
25 ~~and stole money out of the safe and the inn.~~ I think

1 approximately, \$265 was taken. What was important in that
2 case was that a purple Crown Royal bag was handed to the
3 clerk for the money to be placed in. Subsequently, when a
4 search warrant was served on Mr. Thompson's home, that type
5 of bag was found in his room, under his bed along with
6 other evidence that connected him with other armed
7 robberies.

8 The second armed robbery ---

9 THE COURT: Okay. But did they use a weapon?

10 MR. JENNINGS: Yes, sir. They had a gun.

11 THE COURT: A gun?

12 MR. JENNINGS: It was a hand gun in each of these.

13 THE COURT: All right.

14 MR. JENNINGS: A black hand gun. The second armed
15 robbery in Columbia that he's pleading guilty to ~~occurred~~
16 ~~on September 21, of 2000, that was also at the Days Inn on~~
17 ~~Backlane Road.~~ Also, he and Mr. Chadwick Cooper entered
18 the Days Inn, and presented a gun to the clerk, Ms. Brenda
19 Tucker, and stole \$860 from that Days Inn.

20 The third armed robbery occurred in the City of
21 Columbia. It was at a Sleep Inn, and that was on October
22 12th of 1998. And it was the same type of incident. Mr.
23 Thompson and the co-defendant entered into the Sleep Inn
24 and presented a gun to the clerk, who was a Ms. Blitch;
25 threw her down to the ground, tied her up, and stole about

1 \$5,000; took \$200 cash out of the till, as well as stole
2 the safe. The key that, actually, broke all of these cases
3 was the search warrant when Mr. Thompson was developed as a
4 suspect in these cases.

5 He was a former employee of this Sleep Inn, the one in
6 the City of Columbia, and had, actually, stopped working
7 there just weeks prior to the armed robbery occurring. And
8 they had a check that was owed to him for the last time
9 that he worked that was in the safe that was stolen. When
10 Investigator Walt Bales, who was present, was ready to
11 testify on the Berkeley County case -- ~~when they served the~~
12 ~~search warrant, they found the check in Mr. Thompson's room~~
13 ~~that had been in the safe when it was stolen.~~ And then, he
14 was arrested on those Columbia armed robberies. And stayed
15 in the Richland County detention center for some period of
16 time and was, eventually, I think, he had his bond reduced,
17 and he was able to make bond.

18 And then on February 28 of 2000, the armed robbery in
19 Summerville took place. Ms. Melony Richardson was present.
20 She was the night clerk at the Sleep Inn that night. Mr.
21 Thompson, as she would testify, had come in, asked to see a
22 room. She gave him a one shot key to go look at a room,
23 then he took a -- or our theory was that he took a towel
24 from the room and went down to the back door of the motel
25 tell and propped the door open. And then came back around

1 to the front, gave Ms. Richardson the key back, and said he
2 was going to go check some other motels, to see the prices.
3 Approximately, ten minutes later, he came back into the
4 motel from down the side hallway from that back door,
5 pulled a gun on her, forced her into the back laundry room,
6 where he duct taped her wrists together, duct taped her
7 ankles, put duct tape around her mouth. While he was armed
8 with a hand gun, he stole the safe which contained
9 approximately \$1500 and stole \$200 out of the till.

10 Then on March the 27th at the Sleep Inn in Mt.
11 Pleasant, Mr. Thompson used his mother's check-card to rent
12 a room at that Sleep Inn. When the clerk gave him the key,
13 he went to the room for a short period of time, as with the
14 Sleep Inn in Summerville, immediately came back out and
15 said he didn't want the room; and left. About two hours
16 later, he came back into the Sleep Inn from down the back
17 hallway, the same as he had done in Summerville, presented
18 a gun to the clerk; tied her with tape -- I mean, tied her
19 with rope. The tied her hands and feet together, and
20 gagged her mouth with a rag. He stole the safe as well as
21 cash out of the till.

22 At the time the Mt. Pleasant and Summerville Robberies
23 took place, there was absolutely no leads. Mr. Thompson is
24 not from this area. My theory was that he was coming down
25 and doing these and immediately going right back to

1 Columbia. It was by happenstance that the investigators
2 from Mt. Pleasant and Summerville talked, because they were
3 such similar MO's. And those investigators happened to
4 talk to Investigator Bales in Columbia, seeing if there had
5 been any similar robberies there. Investigator Bales,
6 based on the address of the credit card, in Mt. Pleasant,
7 that was used to rent the room, coupled with the
8 description of the suspect, as well as the MO, said, We had
9 arrested Clifford Thompson on similar cases here. I know
10 he's out of jail. I'm going to put a photo line-up
11 together for you. You can show it to your witnesses and
12 see if this is your guy. And he prepared the photo
13 line-up, and Mt. Pleasant Police Department picked it up
14 from Columbia, showed it to their witness, they identified
15 him as the person who was in the hotel that night. And
16 then they provided that to Lieutenant Mott with the
17 Summerville Police Department. And he showed the line-up
18 to Ms. Richardson, and she, also, identified Mr. Thompson
19 as the person who robbed her in February of 2000. And Mr.
20 Thompson has no prior convictions, Your Honor; and not
21 juvenile record. I checked in Richland County and
22 Lexington.

23 THE COURT: Now. Mr. Thompson, after hearing what the
24 prosecutor has told me, sir, is that true, sir?

25 DEFENDANT: ~~Yes, Your Honor, I either had some~~

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INCARCERATED INMATE SEARCH

SCDC ID:

SID:

First Name: clifford

Last Name: thompson

☐ Phonetic Match

SCDC ID	Name	Sex	Race	Height	Weight	Age
00274805	THOMPSON, CLIFFORD	MALE	BLACK	6' 01"	178	35

1 Inmate Found

Picture Date 07/16/2007

Inmate Description

<u>Name</u>	Thompson, Clifford
<u>SCDC ID</u>	00274805
<u>SID</u>	SC01108535
<u>DOB</u>	07/10/1975
<u>Citizenship</u>	Citizen - Native Born
<u>Build</u>	Medium
<u>Complexion</u>	Dark
<u>Hair Color</u>	Black
<u>Eye Color</u>	Brown

Inmate Sentence and Location

<u>Offender Type</u>	Adult-straight Sentence
<u>Offense</u>	Kidnapping
<u>Sentence Start Date</u>	05/13/1999
<u>Sentence Length</u>	25 YRS, 0 MOS, 0 DYS
<u>Admission Date</u>	05/04/2001
<u>Committing County</u>	Richland
<u>Location</u>	Broad River
<u>Projected Release Date</u>	08/05/2020
<u>Projected Parole Date</u>	Not Eligible
<u>Supervised Furlough</u>	Not Eligible
<u>Eligibility</u>	Not Eligible
<u>Sex Offender Registry</u>	Yes

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CERTIFICATE

STATE OF SOUTH CAROLINA
In The Court of Appeals

Clifford Thompson,

Appellant,

Case No. 2010.16.1446

v.

State of South Carolina,

Respondent.

Certificate of Compliance
for Record on Appeal

I, Clifford Thompson, do certify that the Record on Appeal does contain all material proposed to be included by any of the parties and not any other material. I do certify that the submitted Record on Appeal complies with South Carolina Rules of Court.

RECEIVED

SEP 16 2011

SWORN and Subscribed before me

this 15th day of Sept 2011.

SC Court of Appeals

Signed,

Eugene Beeth

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 2016

My Commission Expires April 4, 2016

Clifford Thompson

#274805

4460 Broad River Rd.
Columbia, SC 29210

STATE OF SOUTH CAROLINA
In The Court of Appeals

Clifford Thompson,
Appellant

Case Tracking # 2010161446

v.
State of South Carolina,
Respondent.

CERTIFICATE OF SERVICE

I, Clifford Thompson, do certify that I have served (1) copy of the Record of Appeal on Respondent State of South Carolina by hand delivering a true copy to the Broad River Prison mailroom personnel, postage pre-paid for U.S. mail, this 8 day of July 2011. Mailed after addressed to the following:

Attorney General of S.C.
Dennis Bldg., Box 11549
Columbia, SC 29211

SWORN and Subscribed before me
this 8 day of July 2011

Susan J. Johnson
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: March 5, 2018

Signed,
Clifford Thompson
BRCI/274803/CW12
4460 Broad River Bldg.
Columbia, SC 29211