

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Thomas W. McGee, III, Circuit Court Judge

Case No. 1975-GS-40-1007
(Appellate Case No. 2025 – 001682)

RECEIVED
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SC Court of Appeals

The State of South Carolina,

Respondent,

v.

Melvin T. Roberts,

Appellant.

INITIAL BRIEF OF APPELLANT

File Pursuant to *Anders v. California*, 386 U.S. 738 (1967)

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STATUTE

S.C. Code § 23-3-463 (A)(2)2

STATEMENT OF ISSUE ON APPEAL

DID THE TRIAL COURT INCORRECTLY APPLY THE REVISED PROVISIONS OF THE SOUTH CAROLINA SEX OFFENDER REGISTRY LAWS, AMENDED IN 2024, AND DENIED APPELLANT'S REMOVAL FROM THE REGISTRY WHEN APPELLANT'S MOTION FOR REMOVAL WAS FILED IN 2022 AND A DIFFERENT ARGUMENT WOULD HAVE BEEN PRESENTED FOR APPELLANT'S REMOVAL FROM THE REGISTRY UNDER THE PREVIOUS LAW?.

STATEMENT OF THE CASE

This matter was before the Honorable Thomas W. McGee, III, Circuit Court Judge, for a hearing pursuant to a Motion filed on November 8, 2022, by counsel, Attorney Charles T. Brooks, III, on behalf of Defendant Melvin T. Roberts, for an Application for Removal from the S.C. Sex Offender Registry ("SCSOR").

The hearing was held on June 18, 2025, with Mr. Brooks and Mr. Roberts being present. The State of South Carolina was represented by Deputy Solicitor Anna Browder.

The Defendant's Motion was filed for removal from the SCSOR before the law was recently changed, but the hearing was not held until the new law became effective.

Mr. Roberts' Motion for removal from the SCSOR was based on the fact that he was convicted in the State of South in 1975 for a sex offense. (R. at ____). The SCSOR was not in effect at the time of Mr. Roberts' conviction.

Mr. Roberts was sentenced to a term of incarceration of forty (40) years, which he served at the South Carolina Department of Corrections. (R. at ____). He was released from incarceration on February 8, 1989. (R. at ____). He was placed on parole and was supervised by the South Carolina Department of Probation, Parole, and Pardon ("SCDPPP") until 2002. (R. at ____). In 2002, he was advised by SCDPPP to begin registering as a Sex Offender. (R. at ____). Being advised to so register, Mr. Roberts has continuously registered without any issues. (R. at ____).

Mr. Roberts submitted the following two matters in support of his removal from the SCSOR: (a) he is a resident of Florence County and has been married to his wife for forty (40) years; and (b) Dr. Thomas V. Martin evaluated Mr. Roberts and created a report dated February 11, 2015, indicating that Mr. Roberts posed a very low risk to sexual offending. (R. at ____).

Mr. Roberts has not been arrested or incarcerated for any criminal offenses since his original conviction from 1975. (R. at ____).

For purposes of removal from the SCSOR, Mr. Roberts is considered a Tier III offender. At the time his Motion was filed, Mr. Roberts would have been eligible for removal from the SCSOR because he had accrued more than thirty (30) years from the time of release from incarceration, which was the standard if a Tier III Offender being removed from the registry. By the time the hearing was held, the law had been changed to require removal after thirty (30) years when supervision on parole terminated.

The State argued that the new law governed Mr. Roberts' removal and is retroactive in application barring his request, despite the fact that Mr. Roberts' Motion was filed at the time and under a statute that would have allowed removal.

The Honorable Judge McGee considered the arguments made in this case and concluded that based on the plain language of S.C. Code § 23-3-463 (A)(2), Mr. Roberts classifies as a Tier III Offender qualifying him to request removal from the SCSOR after thirty (30) years from the date of discharge from termination of active supervision of parole, which would be the year 2032. Accordingly, Mr. Roberts Motion was deemed premature and denied.

This appeal follows.

STANDARD OF REVIEW

Regarding procedural issues such as the granting or denying of a motion, the standard of review is abuse of discretion. *See Sanders v. Smith*, 431 S.C. 605, 848 S.E.2d 604 (S.C. App. 2020), *citing Ware v. Ware*, 404 S.C. 1, 10, 743 S.E.2d 817, 822 (2013). “An abuse of discretion occurs when the order of the court is controlled by an error of law or when[n] the order is based on factual findings that are without evidentiary support.” *Ware*, 404 S.C. at 10, 743 S.E.2d at 822.

ARGUMENT

THE TRIAL COURT INCORRECTLY APPLIED THE REVISED PROVISIONS OF THE SOUTH CAROLINA SEX OFFENDER REGISTRY LAWS, AMENDED IN 2024, AND DENIED APPELLANT’S REMOVAL FROM THE REGISTRY WHEN APPELLANT’S MOTION FOR REMOVAL WAS FILED IN 2022 AND A DIFFERENT ARGUMENT WOULD HAVE BEEN PRESENTED FOR APPELLANT’S REMOVAL FROM THE REGISTRY UNDER THE PREVIOUS LAW.

Counsel has reviewed the court file, as well as the transcript of proceedings prepared in this case, and can find no error by the trial court prejudicial to the rights of Appellant which may be argued to this court on appeal.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Counsel respectfully requests this court to independently review the transcript of proceedings and the court file to determine whether any possible error exists.

Counsel also requests permission to withdraw as counsel for Appellant on the basis that no arguable issue can be presented to the court for this appeal.

Finally, Counsel certifies that a copy of this Brief has been sent to Appellant, with instructions that he may file his own brief with the South Carolina Court of Appeals.

CONCLUSION

For all of the reasons stated above, this Honorable Court should take action consistently with the position stated above.

RESPECTFULLY SUBMITTED,

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