

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SC Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of General Sessions

Thomas W. McGee, III, Circuit Court Judge

---

Appellate Case No. 2025 – 001682

The State of South Carolina,

Respondent,

v.

Melvin T. Roberts,

Appellant.

---

RECORD ON APPEAL

---

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**INDEX**

Order Denying Defendant’s Motion for Order of Removal..... 1  
Motion for Order of Removal ..... 4  
Trial Transcript from June 18, 2025,..... 9



The Defendant is a resident of Florence County and has been married to his wife for 40 years. Dr. Thomas V. Martin evaluated the Defendant and created a report dated February 11, 2015, indicating the Defendant posed a very low risk to sexually offend.

### **LEGAL AND PROCEDURAL BACKGROUND**

In light of his conviction for Rape, the Defendant is a Tier III offender pursuant to S.C. Code § 23-3-430(C)(3). On November 8, 2022, the Defendant filed a Motion for Order of Removal from the SCSOR pursuant to S.C. Code § 23-3-463(A)(2). Under S.C. Code § 23-3-463(F), the Defendant submits this Court is now in a position to grant the motion if it determines "by clear and convincing evidence" the Defendant "is no longer a foreseeable risk to reoffend and that it is in the best interest of justice to grant the motion." The State disputes the timeliness of the Defendant's motion and submits it is premature. The Court took up this issue at the hearing on June 18, 2025.

### **ANALYSIS**

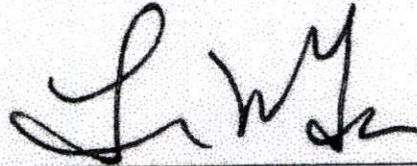
An offender may file a motion with the general sessions court to request an order to be removed from the requirements of the sex offender registry act if: ...(2) He is a Tier III offender after thirty years from the date of discharge from incarceration without supervision, or the termination of active supervision of probation, parole, or any other active alternative to incarceration. S.C. Code § 23-3-463(A)(2). In addition, this Act is retroactive and shall apply to any resident of this State who currently is required as a sex offender pursuant to the provisions of Article 7, Chapter 3, Title 23, and who meets the requirements set forth in the act. *Id.*

The Defendant and State both agree, through the Defendant's filing of November 8, 2022 and through oral arguments at the hearing on June 18, 2025, the Defendant was released from incarceration in 1989 and was on supervision through the SCDPPP until 2002. Based on the plain language of S.C. Code § 23-3-463(A)(2), the Defendant is not eligible for consideration of removal

from the SCSOR until the year 2032. Therefore, the Defendant's motion filed November 8, 2022 is premature.

The Court hereby **DENIES** the motion to remove the defendant from the South Carolina Sex Offender Registry.

**IT IS SO ORDERED.**



The Honorable Thomas W. McGee, III  
Circuit Court Judge

1786

This 8 day of August, 2025

Columbia, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 The State of South Carolina, )  
 )  
 Defendant, )  
 )  
 VS. )  
 )  
 Melvin T. Roberts, )  
 )  
 Respondent. )

IN THE COURT OF GENERAL SESSIONS  
 FIFTH JUDICIAL CIRCUIT

Indictment#: 75-1007

MOTION FOR ORDER  
 OF REMOVAL

\*\*\*\*\*

RICHLAND COUNTY  
 FILED  
 2022 NOV -8 PM 2:08  
 JEANETTE W. MORRIS  
 C.C.R., G.S., & F.C.

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 Florence, State of South Carolina.
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 a sex offense in 1975 in Richland County.
5. The Defendant was sentenced to a term of incarceration of forty (40) years for the charge(s) which was to be served with the South Carolina Department of Corrections. The Defendant was released from incarceration on February 8, 1989.
6. That the Defendant was on parole and being supervised by the South Carolina Department of Probation Parole and Pardon (SCDPPP) beginning immediately

after his release in 1989 and continuing until 2002 and he was advised by SCDPPP to begin registering as a Sex Offender.

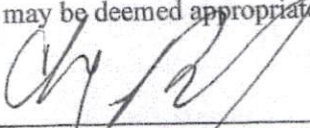
7. That the State of South Carolina Sex Offender Registry classifies the Defendant as a Tier III offender.
8. That the Defendant, since his release, has not been arrested or convicted of any criminal offenses of any nature.
9. That the Defendant has received evaluations from mental health professional 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 asserts that his offense, conviction, sentence and release from incarceration all occurred prior to the South Carolina Sex Offender Registry being in existence.
14. 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.
15. That the Defendant asserts that in the 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.

16. 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 III Offender and more than thirty (30) years has elapsed since the Defendant's release from incarceration.
17. 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.

  
\_\_\_\_\_  
**CHARLES T. BROOKS, III**  
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[cbrooks@ctbrooks.com](mailto:cbrooks@ctbrooks.com)

Dated: October 18, 2022

RICHLAND COUNTY  
FILED  
2022 NOV - 8 PM 2:08  
JEANETTE W. McBRIDE  
C.C.R., G.S., & F.C.

RICHLAND COUNTY  
FILED

STATE OF SOUTH CAROLINA )  
)  
COUNTY OF FLORENCE )  
)  
MELVIN THOMAS ROBERTS )  
PETITIONER )  
VS )  
MARK KEEL )  
DIRECTOR, SOUTH CAROLINA )  
LAW ENFORCEMENT )  
DIVISION (SLED), AND THE )  
STATE OF SOUTH CAROLINA )  
RESPONDENT )

IN THE COURT OF COMMON PLEAS  
TWELFTH JUDICIAL CIRCUIT  
C/A NO.:2014-cp-21-1973  
AFFIDAVIT OF THOMAS V. MARTIN, M.D.

2022 NOV -8 PM 2:09  
JEANETTE W. McBRIDE  
C.C.P., G.S., & F.C.

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 and the American Board of Forensic Psychiatry. 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 includes 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. Melvin Thomas Roberts is a 67 year old retired married male from Florence South Carolina, with 16 years of Service at a local university in the Custodial and Maintenance Services. Mr. Roberts has been married to Laura Bell Roberts since 1966 and is the father of four grown children. Mr. Roberts was arrested on January 19, 1975, convicted of Rape, and sentenced to forty years in the South Carolina Department of Corrections. Mr. Roberts served fourteen years of that sentence and was paroled on February 8, 1989. Mr. Roberts has continued to deny any guilt in this incident, but served this time without any infractions, has had no parole violations and has been a model citizen since being paroled in 1989. Mr. Roberts has been 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 two and a half hour interview with Mr. Roberts and his wife, consultation with his attorney, a review of his criminal record, Indictment January 19, 1975, Transcript of Proceedings, September 2, 1975, his Certificate of Parole February 8, 1989, Certificate of Service from State of South Carolina for 10 years of service dated July 30, 2002, and Certificate of Appreciation from State of South Carolina, Office of the Governor for faithful service dated November 1, 2008.

- 3) Mr. Roberts has been a viable and productive citizen within his community. He has no subsequent criminal record, has remained married to the same wife for forty years, and maintains close relationships with his children and grandchildren.
- 4) Throughout the consultation, Mr. Roberts remained candid and genuine surrounding his charge of rape and continues to deny guilt, but does not bear animosity toward the victim who charged him with the crime. While incarcerated; he was the Chairman of Inmate Advisory Counsel, worked as a teacher's aide and attended USC on the CCI grounds, worked as a canteen cashier and on local construction projects. Mr. Roberts became a Full Trustee and worked all over South Carolina. After his release to a halfway house in Florence, he was later reunited with his spouse and family and has led a pattern of model behavior in his lifestyle and work ethic.
- 5) Diagnostically, Mr. Roberts does not suffer from a major mental illness. He has no history of addictive substance abuse or dependence. Furthermore, Mr. Roberts does not suffer from a sexual perversion disorder, Paraphilia. He has healthy and long-term interpersonal relationships and has had a successful career at the local university. Mr. Roberts has a supportive family unit and has had no aberrant behaviors or relationships. Mr. Roberts does not require psychotherapeutic intervention or treatment.
- 6) In conclusion, Mr. Roberts poses a very low risk to sexually offend. 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. Robert's sense of integrity, is preventing him from attending his grand-children's activities with his family and is creating stress precluding his desire to buy a home and move within South Carolina. Mr. Roberts feels haunted by the fact that his name remains on the registry and when friends have incidentally seen his name, they are deterred. Mr. Roberts does not need any further deterrent to prevent him from 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. Roberts does not meet these criteria.

Further affiant sayeth not.

Thomas V. Martin, M.D.

Sworn to before me this 11<sup>th</sup> day of

February, 2015

Joy S. Covington Grimsley

A Notary Public for South Carolina

My Commission Expires: 12-15-2017

RICHLAND COUNTY  
 FILED  
 2022 NOV - 8 PM 2: 09  
 JEANETTE V. McBRIDE  
 C.C.P., S.S., & F.C.



I N D E X

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(WHEREUPON, no witnesses were called.)

1 THE COURT: Yes, ma'am.

2 MS. BROWDER: The State calls Melvin Roberts.

3 THE COURT: Good morning.

4 MR. BROOKS: Good morning.

5 MS. BROWDER: It's a motion.

6 THE COURT: Yes, ma'am.

7 MS. BROWDER: Thank you, your Honor. Before you  
8 is Melvin Roberts, I think he's actually sitting in the  
9 audience with his Attorney Charles Brooks of the private  
10 bar. Mr. Roberts procedural background was convicted in  
11 1975 of rape and sentence to a term of 40 years. He was  
12 released from incarceration 1989 placed on the -- and he  
13 was monitored from the time of his release until 2002. At  
14 that point he began registering as a sex offender.

15 This is the defense's motion for the removal  
16 from the sex offender registry. The State's position your  
17 Honor is that it is not timely at this point because under  
18 section 23-34-632 he's considered a tier-three offender,  
19 and they cannot apply for removal until after 30 years  
20 from the date of discharge from incarceration without  
21 supervision or the termination of active supervision or  
22 probation, parole and other active alternative to  
23 incarceration. And by Mr. Roberts own pleadings, he was  
24 monitored until 2002 at which time he became a sex  
25 offender. So that would put his time to be able to remove

1 -- after removal at 2032.

2 THE COURT: And what was that statute, again,  
3 ma'am?

4 MS. BROWDER: It is 23-3-463 section A 2.

5 THE COURT: All right. And do you have a copy  
6 of the motion that was filed?

7 MS. BROWDER: I can hand you my copy if you need  
8 it.

9 THE COURT: I can give it right back look at it.

10 MR. BROOKS: Did you hand him the one that I  
11 filed in November 2022?

12 THE COURT: The motion for order of removal  
13 November 8, 2022.

14 MR. BROOKS: That's correct.

15 THE COURT: Okay. Is there any dispute that the  
16 defendant is a tier-three offender?

17 MR. BROOKS: No dispute about that.

18 THE COURT: All right. All right. Is the  
19 dispute here whether the 30 years begins when he's  
20 released and when he stops, when he end his parole, is  
21 that what we're ---

22 MS. BROWDER: I'm assuming.

23 MR. BROOKS: Judge, you probably hadn't heard  
24 from me yet, Judge.

25 THE COURT: And, again, I'm just trying to see

1 this. And the reason that I'm asking that is because in  
2 paragraph 16 of the motion states that more than 30 years  
3 has elapsed since the defendant's release from  
4 incarceration. And I at least got the impression from  
5 Ms. Browder that because your motion also states that he  
6 went off parole in 2002, that that's when the 30 years  
7 begin. So is that essentially what we're trying to --  
8 where we are? I'll be happy to hear from you, yes, sir.

9 MR. BROOKS: Judge, I've had a few sexual  
10 offender registry cases, so the statute has changed since  
11 we actually asked to get off the registry. The statute in  
12 '23 was from the time that the person was on a registry  
13 and that particular provision in the statute did not  
14 account for people who perhaps went to prison or had  
15 convictions prior to the registry's existence. The  
16 registry came into existence in July of 1994. In this  
17 particular situation, my client, Mr. Roberts, went to  
18 prison in 1975. He got out in 1989 and he was being  
19 monitored. And, obviously, had an exemplary record since  
20 that time, no problems with failure to register, but he  
21 never even got told to register when the registry was in  
22 existence ---

23 THE COURT: Right.

24 MR. BROOKS: --- 1994 and that's what the  
25 statute was set at the time that we asked to get off the

1 registry, that's why I made a point to make sure you had  
2 my request to be removed from the registry in November of  
3 '22.

4 THE COURT: Sure.

5 MR. BROOKS: And so since that time -- and I  
6 actually have another case, which is on appeal out of  
7 Greenville where my client in that situation had got out  
8 of prison two months with no supervision, two months prior  
9 to the registry in existence. And nobody ever told him  
10 until seven years later and then the argument now became,  
11 well, he didn't get on the registry until 20 years and he  
12 was a tier two, but it was less than 25. So my point is  
13 in order to be fair what we're asking the Court is to look  
14 at Mr. Roberts as his -- in essence his body of work in  
15 existence. He got out of jail in 1989. And we're asking  
16 the Court to operate under the fundamental fairness.  
17 Here's a statute that has changed after we ask for him get  
18 off when the statute originally was from the time that he  
19 was on the registry. And, of course, in his situation,  
20 the registry wasn't in existence when he got out of jail,  
21 but it was in existence while he was being monitored, that  
22 meant that the State had a duty to tell him in 1994 and  
23 they didn't do that.

24 The State also since we filed our motion changed  
25 the statute to provide an immunity provision to keep the

1 Melvin Roberts of the world from being able to now go and  
2 sue them for its negligence. And what I am asking the  
3 Court to do is to look at his body of work in the since  
4 he's never been in trouble. And we also submitted an  
5 affidavit from a well respected expert in the sexual  
6 forensic psychiatry field a Dr. Thomas Martin from an  
7 evaluation of more than ten years ago.

8 THE COURT: Yes, sir.

9 MR. BROOKS: In which my client is less likely  
10 to offend as opine by Dr. Tom Martin. And Dr. Martin also  
11 indicates as a person gets older the likelihood of them  
12 reoffending would get less and less. And this report was  
13 done more than ten years ago.

14 THE COURT: Right, so he was 67 at the time, so  
15 he's 77 now.

16 MR. BROOKS: Getting ready to turn 78 on Friday,  
17 Judge.

18 THE COURT: Right. And I'm not aware of  
19 anything or at least I didn't hear anything from  
20 Ms. Browder that he's done anything wrong, but I'm looking  
21 at 23-3-463(a)(2). And it says an offender may file a  
22 motion with the general sessions court to request an order  
23 to be removed from the requirements of the Sex Offender  
24 Registry Act if he is a tier-three offender, which it  
25 stipulated he is. After 30 years from the date of

1 discharge from incarceration without supervision. So in  
2 other words, if he didn't have parole or anything else or  
3 the termination of active supervision of probation, parole  
4 or any other active alternative to incarceration. And so  
5 if -- I mean, is there any dispute that he was on parole  
6 until 2002 is that when he ended his parole?

7 MR. BROOKS: That is correct.

8 THE COURT: Well, I don't know how I can, unless  
9 there's some argument that this statute doesn't apply to  
10 him. I'm not sure how I can allow it. I mean, I hear  
11 what you're saying. The fairness, discretion all those  
12 kind of things, but my job is just to enforce the statute  
13 as written. And I don't know that there's any place in  
14 this statute that allows me to have the discretion to let  
15 somebody out even if as it appears that he's been a model  
16 prisoner during that time and hasn't done anything after.

17 MR. BROOKS: I would respectfully disagree with  
18 your Honor.

19 THE COURT: Okay.

20 MR. BROOKS: Because part of the statute doesn't  
21 say whichever is later. Basically, I would argue that the  
22 statute does give you discretion because it says or. It  
23 can be from the date that he gets released or the date  
24 that he is off of parole. It doesn't say you got to take  
25 whichever one is later. It doesn't have that specific

1 strict provision in it. It says or. I would argue to  
2 your Honor that you have the authority to determine to go  
3 with the previous part of that provision that says or when  
4 he was released. There's no dispute that he was released  
5 in 1989, which is well over 36 years ago. The statute  
6 does not say that. It does not say you have to whichever  
7 is later. It just says this or that.

8 MS. BROWDER: Your Honor.

9 THE COURT: Go ahead.

10 MS. BROWDER: To answer that point, he left out  
11 the words discharged from incarceration without  
12 supervision. He did have supervision afterwards.

13 THE COURT: And that's what -- and you're  
14 exactly right Mr. Brooks, it doesn't say the later of,  
15 but, I mean, the way that I read the statute is one of --  
16 the 30 year begins to tick on one of two instances. He's  
17 released from incarceration without supervision or after  
18 he's released and then any supervision like probation,  
19 parole ends. And I don't think that he fits in either one  
20 of those buckets, unless there's some evidence that he was  
21 released from incarceration in 1989 and was not under some  
22 type of supervision. I don't think that that's the case.

23 MR. BROOKS: The only problem I have, Judge,  
24 that's what the statute was when he asked to get off the  
25 registry. So basically the State waits and allows us to

1 have a hearing after they have changed the statute to  
2 account for the Melvin Roberts when Melvin Roberts  
3 initially asked to get off the registry, that's what's not  
4 fundamentally fair, Judge, because that's not what the  
5 statute was in November of '22.

6           If you recall, the Supreme Court in 2021 has  
7 basically come up with a rule that said that the  
8 legislature had to come up with a process for people on  
9 the sex offender registry and gave them a year to do it.  
10 At the end of '22 or excuse me -- the end of the  
11 legislative session in '22, they had ram this statute  
12 through. This was not part of that statute. This is a  
13 modification of that statute after Melvin Roberts and  
14 other people in that class have asked to come off the  
15 registry.

16           People in that class I would consider as people  
17 whose convictions, incarcerations and release of  
18 incarcerations occurred prior to the registry's existence  
19 because at that time that statute said from the time that  
20 they were on the registry. So now they had a fundamental  
21 problem because they didn't account for these people, so  
22 we ask for this then. So from my standpoint or from my  
23 client's standpoint, he is actually being punished because  
24 of the State's delay in having his hearing. If he had had  
25 his hearing then, we'd already been off.

1 THE COURT: How about that, Ms. Browder? Does  
2 this statute that's in effect now govern this motion or  
3 does the statute that was in effect at the time that the  
4 motion was filed, which was November 8th of 2022 govern?

5 MS. BROWDER: This does, your Honor. Right  
6 above section eight, it says this act is retroactive and  
7 shall apply to any resident of the state who's currently  
8 required to register as a sex offender.

9 THE COURT: How about that, Mr. Brooks?

10 MR. BROOKS: Well, Judge, as, again, that's not  
11 fundamentally fair because if somebody had got off the  
12 registry -- if he had had his motion heard at that time  
13 and a judge or you being a judge had let him off, then  
14 you'd have to go back and find him and say we change the  
15 statute and put him back on.

16 THE COURT: Well, I don't think it says that you  
17 can go back -- if he was let off under the then existing  
18 statute, I don't think that 20 years later this new  
19 statute was passed, I'm not sure because I haven't done  
20 any research on it, but I can't imagine at that point that  
21 it would undue the compliance with a statute at that  
22 point. Now, maybe if he hadn't moved at that time, but if  
23 it's retroactive and the motion -- and he was still  
24 obligated to register at the time -- I mean, again, I  
25 understand what you're saying about the unfairness and

1 these kinds of things, but if I'm required to enforce the  
2 statute says the legislature deemed to pass them. I'm  
3 struggling with where in here I'm able to exercise that  
4 discretion.

5 MR. BROOKS: Judge, if I may, when they passed  
6 the registry statute in 1994, they went back to people and  
7 put people on the registry. There have been case law that  
8 says it is not ex post facto to go back where people's  
9 convictions were prior to that, but then they were  
10 informed by law enforcement or some government agency that  
11 they needed to register. So in essence, that's what they  
12 did with this gentleman because in 1975 when he was  
13 convicted all of this didn't exist.

14 In 1989 when he got out, all of this did not  
15 even exist. So it is going backwards because he was  
16 already out of prison. And there other people who are  
17 already done their time, out of prison and released from  
18 any type of incarcerations that actually had to go back  
19 and register, so what's good for the goose is good for the  
20 gander.

21 If they can go back and do that and put somebody  
22 on the registry and why can't you go back as a judge and  
23 do fundamental fairness for a particular individual when  
24 he asked to got off the registry at the existence of the  
25 time what the statute indicate. And now he's being

1 punished because they didn't have his hearing back in  
2 November of 2022. And now the statute goes into encompass  
3 him and to lock him in. You know, at some point if you're  
4 going to do to one side, you got to do to the other. You  
5 got to be fundamentally fair, that's why we have hearings.  
6 That's why we have judges to look at individual  
7 circumstances and make decisions based on that.

8 THE COURT: How about that, Ms. Browder, what  
9 would happen if this motion would have been heard on  
10 November 9, 2022?

11 MS. BROWDER: I'm not sure. It would be up to  
12 the judge at that point your Honor. We'd have to have  
13 testimony from Dr. Martin as to whether he was still a  
14 foreseeable risk to the community as to whether he should  
15 come off your Honor. But as to the ex post facto portion  
16 of it, that's already been litigated by Mr. Roberts in  
17 2014 in a civil action in which Judge Russo indicated that  
18 he cited State vs. Walls which said holding South Carolina  
19 Sex Offender Registry constitutional specifically finding  
20 the act does not violate the ex post facto clauses of the  
21 state or federal constitution.

22 MR. BROOKS: To my point, Judge, that was prior  
23 to the State coming up with a process as mandated by the  
24 Supreme Court to come up with a process to get people off  
25 the registry. So my client more than ten years ago we

1 were trying to go with basically a Supreme Court ruling.  
2 So now we have the State who recognizes a fundamental  
3 process for people get off the registry. They created a  
4 statute. The statute at that time indicated a period of  
5 time from when a person was on the registry. If he was  
6 under supervision, then that mandated because also in that  
7 sexual offender statute it says that the department of  
8 corrections or it said at the time the department of  
9 corrections and the department of probation shall tell  
10 everybody that has come through there if they're eligible  
11 to register, they need to register.

12 THE COURT: Right.

13 MR. BROOKS: They put the mandate on them to do  
14 that. So if he was being monitored as the State has  
15 indicated, he was under supervision. In 1994, they had a  
16 duty to tell him to register.

17 THE COURT: Right. Well, what difference does  
18 it make if they told him to register or not if they later  
19 passed a statute that was deemed to be retroactive. And  
20 there are certain statutes -- I mean, there are certain  
21 statutes that have been passed or certain -- even by the  
22 interpretation of statutes by the South Carolina Supreme  
23 Court where the legislature or the Supreme Court has held  
24 something to the effect of as to any action filed as of X  
25 this applies or matters that were pending on or before X

1 do not count this.

2           The way that the statute is written being  
3 retroactive I hear what you're saying. If you say this  
4 should have been heard a week or two after I filed it, now  
5 we are here three years later and the statute's different,  
6 but, I mean, again that does seem odd, but at the same  
7 time I don't see that there's anywhere that says look if  
8 you file this motion and it's not heard -- you know, if  
9 you file this motion prior to the enactment of the  
10 statute, then it's not subject to the new 23-34-63, but,  
11 again, I've got to have some statutory provision in here  
12 that allows me to do it and I just don't see it.

13           MR. BROOKS: Well, obviously, our position is  
14 you had a statutory provision when we filed it. And so  
15 we're asking the Court to go by that and go by the fact  
16 that if the State had told him in 1994, then he would have  
17 had his time in and he would have been off the registry  
18 and so that's what we're asking for. So now, you know,  
19 next week a statute is changed and then they'll say that,  
20 you know, he got to wait 40 years.

21           THE COURT: Right. Well ---

22           MR. BROOKS: But my point is he asked for it at  
23 this particular time. And this isn't a situation a  
24 gentleman who has come back and forth in the penal system  
25 and gone through law enforcement and the criminal system.

1 His conviction is more than 50 years ago. I would argue  
2 that many of the people in the courtroom here were not  
3 even alive then, okay. And so now the gentleman gets out.  
4 He does what he's supposed to do. And he follows  
5 everything in the state system, follows everything he's  
6 suppose to do. He asked ahead of time when he sought the  
7 Supreme Court when he tried to get off. They say, naw,  
8 you can't do it then. He still acts right and he still  
9 behaves. When they create a process file a motion to get  
10 in, we don't get in and we can argue then. So now it's  
11 almost like we keep moving the goal post. We going to  
12 throw it back.

13 THE COURT: I see what you're saying it should  
14 have been heard earlier is what you're saying, but, I  
15 mean, the State certainly had no knowledge or no way to  
16 tell what the legislature was going to pass insofar as  
17 this statute is concern. It's not like that they knew  
18 that this was going to happen and we're just delaying  
19 because they knew that it was going to be triggered at  
20 some point just to catch your guy and folks like him.

21 MR. BROOKS: And, Judge, I would say this, I  
22 would not agree with that argument. I would say that that  
23 is a false argument.

24 THE COURT: Well, I mean, and they're probably  
25 the only people in the State that can predict what the

1 legislature's going to do years ahead of time.

2 MR. BROOKS: I'll tell you this, Judge, I had a  
3 gentleman who got off -- who had a conviction under the  
4 YOA statute, who had his conviction expunged. And as a  
5 result of it, SLED found it and then went back and put the  
6 provision in the new expungement law that came out a few  
7 years and said you can't use that anymore. So that's why  
8 I would say that is a false argument when you say the  
9 State -- they knew that. There's plenty of Melvin Roberts  
10 out there. It might not be back in 50 years plenty  
11 other -- when I was up in Greenville two years ago, the  
12 statute says they were arguing from the time of being on  
13 the registry.

14 The gentleman I had went to prison in '89, got  
15 out two months before the registry was in existence.  
16 Their argument was what the statute said at the time.  
17 Now, when we -- that case is on appeal. When we go in  
18 front of the judge, they gone say we're going with what  
19 the statute is now. Well, that's changed since we  
20 submitted briefs, that's not -- how can we go and change  
21 the brief when they turn around and change the statute the  
22 next minute. So at some point you need to go with this is  
23 when it was. And I would argue it should go by when we  
24 asked to get off the registry once they had a process in  
25 place.

1           Now, they go back and fine tune it and fine tune  
2 it some more. And I know the overwhelming goal is we  
3 don't want people to get off the registry. We understand  
4 that, but got to go with what's given at the time and  
5 that's why we filed it then.

6           THE COURT: Yes, sir. Ms. Browder, anything  
7 further?

8           MS. BROWDER: No, sir, your Honor.

9           THE COURT: All right. To be fair on this  
10 issue, I mean, I'm looking at the statute, but I just saw  
11 the motion. I'd like to look into this a little bit. I  
12 assume that if there was a case right on point one of you  
13 all would have told me about it, but I would still like to  
14 look at some of these issues about the retroactivity and  
15 some of those issues. So I'm going to take this matter  
16 under advisement and I'll let you all know very soon on  
17 this, but I do want to be able to take a look at a few  
18 things first.

19           MR. BROOKS: Thank you for letting this be  
20 heard, Judge.

21           MS. BROWDER: Thank you, your Honor.

22                           END OF REQUESTED TRANSCRIPT  
23  
24  
25



THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of General Sessions

Honorable Thomas W. McGee, III

Case No: 2025-001682

The State of South Carolina..... Respondent

v.

Melvin T. Roberts., ..... 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.

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Dated: 11/20/2023  
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