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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County

Honorable Heath P. Taylor, Circuit Court Judge

DENNIS MICHAEL GALLIPEAU,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2025-000890

FINAL REPLY BRIEF OF APPELLANT

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ARGUMENTS IN REPLY

I. The State improperly asserts the appellant's request for removal from the registration requirements is moot on the merits.

The State attempts to avoid the questions presented to this Court by claiming, incorrectly, that regardless of the arguments presented in appellant's brief regarding access to this State's court system for judicial review by fee barriers to indigent applicants, appellant's application should be deemed premature by this Court without the benefit of a hearing on the merits of the application. To the contrary, appellant is likely to succeed on the merits of his application once the improper fee barrier has been removed.

Appellant's underlying registration requirement is controlled by Federal Law under SORNA¹. As noted in appellant's application for removal, his registration requirement was based upon an underlying Federal conviction that was classified as a Tier I offense. Under Federal Law:

A sex offender shall keep the registration current for the full registration period (excluding any time the sex offender is in custody or civilly committed) unless the offender is allowed a reduction under subsection (b). The full registration period is--
(1) 15 years, if the offender is a tier I sex offender;

34 U.S.C. § 20915. Appellant would concede that the application improperly rejected by SLED on the sole basis of the failure to pay the filing fee was not fifteen (15) years after his release from custody.

However, under 34 U.S.C. § 20915(b)(1), a Federal offender may have his registration period reduced for a clean record. Appellant asserted in his application that he qualified for the

¹ 34 U.S.C. § 20911 *et seq.*

reduction of five (5) years, the time allotted for Tier I offenders. *See* 34 U.S.C. § 20915(b)(3)(A). Based upon the reduction for a clean record, appellant asserted that he was qualified under SORNA to apply for removal.

Moreover, South Carolina has adopted this shortened statutory scheme for "foreign" convictions including those obtained in Federal Courts. "If the offender is required to register due to an out-of-state or federal conviction, the equivalent tier under the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA) shall apply." S.C. Code Ann. § 23-3-463(A)(3) (2022).

Based upon the application of Federal Law, appellant was eligible to seek removal of the registration requirement following ten (10) years from his release from custody. The merits of appellant's application would require an evidentiary hearing, which he was deprived of by the improper fee barrier as argued in Appellant's Brief to this Court. At such hearing, the burden would be on appellant to establish his entitlement to the statutory reduction under 34 U.S.C. § 20915(b)(3)(A). At such hearing, the State may assert the impact, if any, of appellant's alleged violation of his supervised release in 2018 on the time period for removal.²

Moreover, the State's claim that appellant's application was somehow denied on the merits is directly contradicted by the plain language of the lower court. Judge Talyor specifically ruled that appellant's failure to pay the fee mandated by SLED was the basis for denying review.

S.C. Code § 23-3-462 explicitly states that "a filing fee, as set by SLED but not to exceed two hundred fifty dollars, shall be paid to file the request for termination of registration requirements." Further, SLED's website states that the fee is "non-refundable and

² Appellant would contend the basis for such violation (allowing the violation to have no impact on the time calculation) and the limited impact of a four (4) month incarceration period (simply tolling the running of the ten year period, not restart if from scratch as implied by the State) would be matters to be addressed a hearing on the merits of the application to build the appropriate record for appellate review.

not waivable." SLED rejected the Defendant's initial application for failure to pay the fee. After reviewing the Defendant's memoranda, this Court finds that the Defendant's petition for appeal should be denied for failure to pay the two hundred fifty dollar (\$250.00) application fee, as is required by statute.

R. 22.

The State's argument that this Court can simply ignore the merits of appellant's arguments on the basis that the underlying application is premature as a matter of law is without merit.

II. The State's assertion that judicial review would still be accessible for indigent applicants who failed to pay the SLED access fees is without merit.

The State attempts to argue that an application that *is not processed on the merits* by SLED due to a failure to pay the access fee can still be *reviewed on the merits* by our courts ignores the statutory wording and the actions of the lower court here.

The statutory scheme requires an application to be submitted to SLED before seeking judicial review.

(A) 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:

(1) He is a Tier I or Tier II offender or if the offender was required to register based on an adjudication of delinquency whose application for removal under Section 23-3-462 *has been denied by SLED*.

S.C. Code Ann. § 23-3-463 (A)(1) (2022) (emphasis added).³ Thus, the SLED application process is a prerequisite for judicial review.

³ Appellant's application would have been under S.C. Code Ann. § 23-3-463 (A)(3) but that alters only the time calculation, not the basic process followed for review by SLED or our

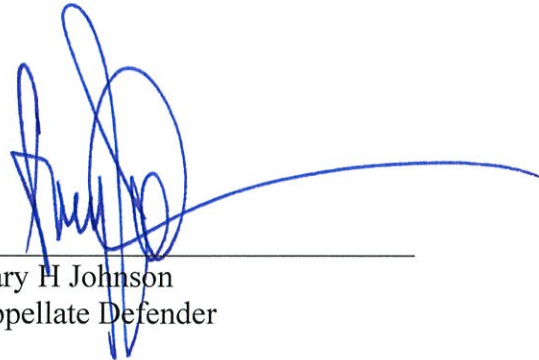
Should this Court accept the State's position that denied of processing an application by SLED due to a failure to pay the fee imposed does not prevent judicial review on the merits of the application, then Judge Taylor's Order in this case is in plain error and this Court should reverse and remand the matter to the Richland County Court of General Sessions for a hearing on the merits of appellant's application which he has been denied to this stage. This, in essence, is a concession that the lower court here improperly denied judicial review based solely on the failure to pay SLED's access fee. An argument appellant would certainly join.

If, as found by the lower court and argued by appellant, the SLED application fee must be paid before judicial review, the merits of appellant's arguments in his Brief apply: such fee barriers to indigent access to the courts would be unconstitutional. The State's Brief on this issue alone supports the need for this Court to provide guidance to the bench and bar on the appropriate procedures and processes in dealing with applications under S.C. Code Ann. § 23-3-463.

Courts. S.C. Code Ann. § 23-3-463 (A)(1) mandates an application before SLED then, upon denial, judicial review.

CONCLUSION

For the reasons set forth in his Brief to this Court, appellant requests an order remanding this matter to the Court of General Sessions and order it proceed with a *de novo* review of appellant's request under S.C. Code Ann. § 23-3-463 or, in the alternative, a remand to SLED as the administering agency for a determination of appellant's initial request with direction that associated fees be waived in cases of indigent applicants. To the extent that the State has conceded the lower court had the authority to rule on the merits of appellant's application despite his inability to pay the fees charged by SLED, a remand on the merits of appellant's application in absence of an initial determination by SLED of eligibility would be an alternative remedy available to this Court.



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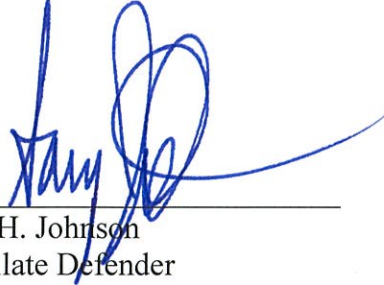
ATTORNEY FOR APPELLANT

This 21st day of July, 2026.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant and Final Reply Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 21, 2026.

A handwritten signature in blue ink, appearing to read "Gary H. Johnson", is written over a horizontal line. The signature is stylized with a large, looping initial "G" and a long, sweeping horizontal stroke extending to the right.

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