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RULE 203 WRITTEN EXPLANATION

Factual Background:

On November 17, 2014, Shawn Mitchell appeared before the court Pro Se for a violation of probation matter. He was on probation for the offense of Grand Larceny and the violation allegations were that he failed to pay monies owed and that he tested positive for drugs. In preparing for the violation hearing, the agent noticed that at a point prior to 1997 Mr. Mitchell was convicted of a Lewd Act offense and that in 2012, Mr. Mitchell was convicted of Failure to Register 2nd offense. The agent believed that Mitchell was required to be on GPS monitoring although he was not. The agent contacted the agency's legal counsel office. Counsel appeared at the 2014 violation of probation hearing and asked the court to issue an Order requiring Mitchell to be placed on GPS monitoring. Mr. Mitchell was never presented with any notice of this request. Mitchell was faced with this for the first time at the November 17, 2014, without counsel. The Court continued the violation hearing for 30 days in order to allow Mitchell to get an attorney to assist him with this matter. The Court accepted a Memorandum prepared by the Legal Counsel for the agency in order to prevent the need for the attorney to travel from Columbia for the rescheduled hearing. Attached to the Memorandum was a proposed order prepared by the legal counsel. On November 18, 2014, outside of the presence of any of the parties, the judge signed the proposed order without Mitchell having the opportunity to address the matter. Mitchell sought the assistance of counsel to quash and argue this order. The violation hearing was rescheduled and held on February 27, 2015, before a different judge. Because the proposed order had already been signed, the only issue considered at the February hearing was the the original violation allegations. The issue regarding the GPS monitoring was referred to the judge that signed the proposed order. A hearing to quash the proposed order was held in late July/early August 2015 and memos submitted by the parties. The Court signed an Order ruling on the Motion on March 2, 2016.

Issues for Review:

1. Mitchell was denied his constitutional rights when the Court continued the hearing and then issued an Order on the matter the next day without allowing Mitchell the opportunity to be heard.
2. That Mitchell was denied Due Process because he was not given notice of this "sex offender" issue when he appeared in court to address the allegations that he failed to pay monies and tested positive for drugs.
3. The Court did not have jurisdiction to hear the Probation offices request when the case before him was unrelated to the "sex offender" case for which they sought an Order on.
4. The Probation office did not have proper standing to address this issue or request with the Court.
5. Section 23-3-540 of the South Carolina Code of Laws is unconstitutional.
6. That the State, by way of the Solicitor office or Probation office, waived any right it had to by not appealing in 2012 when the court did not order Mitchell to be placed on GPS monitoring.

These issues were argued through memorandum and at the hearing before the court.