



# The Supreme Court of South Carolina

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March 18, 2016

The Honorable Mary P. Brown  
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## REMITTITUR

Re: Clifford Thompson v. State of SC  
Lower Court Case No. 2009CP0803107  
Appellate Case No. 2014-001984

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,



CLERK

cc: John W. McIntosh, Esquire  
Lindsey Sterling Vann, Esquire  
Marcie Eubanks Greene, Esquire

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

Clifford Thompson, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2014-001984

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**ON WRIT OF CERTIORARI TO THE COURT OF APPEALS**

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Appeal From Berkeley County  
R. Markley Dennis, Jr., Circuit Court Judge

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Opinion No. 27610  
Heard October 21, 2015 – Filed March 2, 2016

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**AFFIRMED IN PART, REVERSED IN PART**

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Lindsey S.Vann, of Columbia, for Petitioner.

Attorney General Alan McCrory Wilson, Chief Deputy  
Attorney General John W. McIntosh, and Assistant  
Attorney General Marcie E. Greene, all of Columbia, for  
Respondent.

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**ACTING JUSTICE TOAL:** Clifford Thompson appeals the court of appeals' decision in *Thompson v. State*, 409 S.C. 386, 762 S.E.2d 51 (Ct. App. 2014), affirming the circuit court's refusal to grant Thompson's request for declaratory

judgments finding that: (1) his kidnapping offenses did not involve a sexual element; and (2) Thompson would not need to register as a sex offender upon his release from prison in 2020. We reverse in part, and affirm in part.

### FACTS/PROCEDURAL BACKGROUND

From 1998 to 2000, an armed perpetrator committed six robberies of hotels in Lexington, Richland, Berkeley, and Charleston counties. During each of these robberies, the perpetrator entered the hotel, held the clerk at gunpoint, restrained the clerk with either duct tape or rope, and stole money out of the hotel safe and till. After an investigation, the police arrested Thompson for these robberies, and a grand jury indicted Thompson on multiple counts of armed robbery and kidnapping.<sup>1</sup>

In 2001, Thompson pled guilty to six counts of armed robbery and four counts of kidnapping. At the time of the plea, the circuit court failed to make a finding that the four kidnapping offenses were not sexual in nature. *See* S.C. Code Ann. § 23-3-430(C)(15) (2007 & Supp. 2014) (stating that anyone convicted of kidnapping is considered a sex offender "except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense").

In 2009, after discovering that the South Carolina Department of Corrections (SCDC) classified him as a sex offender due to his kidnapping convictions, Thompson filed a petition for a declaratory judgment, requesting the court find that the kidnapping offenses were not sexual in nature, and did not require him to register as a sex offender pursuant to section 23-3-430(C)(15). The State moved the court to dismiss Thompson's action under Rules 12(b)(1) and (6), SCRPC, arguing that Thompson's petition was not yet ripe because sex offender registration requirements are determined solely by the law in effect at the time of an inmate's release from prison, and Thompson would not be released until 2020.

The circuit court granted the State's motion, finding that the action was not ripe. The court further found that Thompson was required to pursue administrative review within the SCDC in order to change his internal classification there. *See Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The circuit court did not address Thompson's request that the court make a finding on the record that his

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<sup>1</sup> The kidnapping charges against Thompson stemmed solely from Thompson's alleged restraint of the clerks.

kidnapping convictions were not sexual in nature.

In a split decision, the court of appeals affirmed. *Thompson*, 409 S.C. 386, 762 S.E.2d 51. Chief Judge Few, writing for the majority, found that "the circuit court properly determined no justiciable controversy existed and dismissed the action because the question of whether Thompson should be required to register as a sex offender is not ripe for adjudication." *Id.* at 388, 762 S.E.2d at 52.

In dissent, Judge Thomas found that Thompson's claim presented a justiciable controversy because of the SCDC's current classification of Thompson as a sex offender, noting that the classification "could have immediate and harmful ramifications." *Id.* at 390–91, 762 S.E.2d at 53 (Thomas, J., dissenting). For example, Judge Thomas noted that because of his classification, Thompson was ineligible for substance abuse services and the ninety-day pre-release program. *Id.* at 391 n.7, 762 S.E.2d at 53 n.7 (Thomas, J., dissenting). Further, Judge Thomas found that the SCDC's classification of Thompson was a "direct result of the circuit court's finding or failure to make any finding, that the [kidnapping] offense was a criminal sexual offense," and that therefore "any attempt by Thompson to challenge his status as a sex offender through the inmate grievance process would be futile in that the [SCDC] is bound by the effect of the circuit court's decision regarding whether his kidnapping was sexual in nature." *Id.* at 391–92, 762 S.E.2d at 54 (Thomas, J., dissenting) (footnote omitted).

We granted Thompson's petition for a writ of certiorari to review the court of appeals' decision.

### ISSUES

- I. Whether the circuit court may properly issue a declaratory judgment that Thompson's kidnapping offenses did not involve a sexual element?
- II. Whether the circuit court may properly issue a declaratory judgment that Thompson need not register as a sex offender upon his release from prison in 2020?
- III. Whether the circuit court may properly address the SCDC's classification of Thompson as a sex offender?

### ANALYSIS

Pursuant to South Carolina's Uniform Declaratory Judgments Act (the Declaratory Judgment Act),<sup>2</sup> "[c]ourts 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." S.C. Code Ann. § 15-53-20. "Any person . . . whose rights, status or other legal relations are affected by a statute . . . may have determined any question of construction or validity arising under the [] statute . . . and obtain a declaration of rights, status or other legal relations thereunder." *Id.* § 15-53-30.<sup>3</sup>

"To state a cause of action under the Declaratory Judgment Act, a party must demonstrate a justiciable controversy." *Sunset Cay, L.L.C. v. City of Folly Beach*, 357 S.C. 414, 423, 593 S.E.2d 462, 466 (2004). "A justiciable controversy is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute or difference of a contingent, hypothetical or abstract character." *Id.* (quoting *Power v. McNair*, 255 S.C. 150, 154, 177 S.E.2d 551, 553 (1970)); see also *Peoples Fed. Sav. & Loan Ass'n of S.C. v. Res. Planning Corp.*, 358 S.C. 460, 477, 596 S.E.2d 51, 60 (2004) (quoting *Pee Dee Elec. Coop., Inc. v. Carolina Power & Light Co.*, 279 S.C. 64, 66, 301 S.E.2d 761, 762 (1983)). The Court should liberally construe the Declaratory Judgment Act so as "to accomplish its intended purpose of affording a speedy and inexpensive method of deciding legal disputes and of settling legal rights and relationships, without awaiting a violation of the rights or a disturbance of the relationships." *Graham v. State Farm Mut. Auto. Ins. Co.*, 319 S.C. 69, 71, 459 S.E.2d 844, 845 (1995).

### ***I. Character of Kidnapping Offenses***

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<sup>2</sup> S.C. Code Ann. §§ 15-53-10 to -140 (2005 & Supp. 2014).

<sup>3</sup> Section 23-3-430 is found in the portion of the South Carolina Code encompassing South Carolina's sex offender registry. As we have repeatedly stated, the sex offender registry is a civil requirement separate and apart from the criminal punishments associated with sexual offenses in this state. *State v. Nation*, 408 S.C. 474, 481, 759 S.E.2d 428, 432 (2014) (citing *In re Justin B.*, 405 S.C. 391, 394, 404-08, 747 S.E.2d 774, 775, 781-83 (2013)). As such, a declaratory judgment, and not post-conviction relief (PCR), is the appropriate vehicle in which to address this matter. *Cf. Williams v. Ozmint*, 380 S.C. 473, 671 S.E.2d 600 (2008) (stating that PCR is intended to address constitutional violations related to the criminal conviction (citing S.C. Code Ann. § 17-27-20(a) (2007))).

Thompson contends that in his action for a declaratory judgment, he requested two declarations: (1) that his kidnapping offenses did not involve a sexual element (the first declaration); and (2) that therefore he would not have to register as a sex offender in the future (the second declaration). Thompson asserts that the circuit court and court of appeals ignored the first declaration in their respective order and opinion, and only addressed the second. We agree.

During the hearing regarding the State's motion to dismiss, the circuit court stated that a criminal defendant must request the court make a finding on the record regarding the character of a kidnapping offense at the time of a guilty plea or jury verdict. The circuit court further stated that should the defendant fail to secure a finding at that time, he forever waives his right to assert that the kidnapping was not sexual in nature.

"Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment of the United States Constitution." *Kurschner v. City of Camden Planning Comm'n*, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008). Fundamentally, due process requires notice, a meaningful opportunity to be heard, and judicial review. *Id.*

We find that Thompson has been denied a meaningful opportunity to be heard on whether his kidnapping offenses were sexual in nature. Section 23-3-430 is a civil statute, and we cannot imagine the General Assembly intended to allow a criminal defendant affected by section 23-3-430 the opportunity to be heard only during his criminal proceedings. While it is permissible—and even encouraged—for the sentencing court to determine the character of any kidnapping offenses at that time, the defendant is entitled to a meaningful opportunity to be heard on the matter at some point, because the civil consequences follow immediately after conviction, and not merely upon his release from prison.<sup>4</sup>

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<sup>4</sup> For example, as Judge Thomas noted in her dissent, Thompson is ineligible to receive substance abuse services while incarcerated, or to enroll in the ninety-day pre-release program (a program designed to help soon-to-be-released inmates reintegrate back into society). *Thompson*, 409 S.C. at 391 n.7, 762 S.E.2d at 53 n.7 (Thomas, J., dissenting); see also *Division of Behavioral Health and Substance Abuse Services*, S.C. Dep't of Corrs., <http://www.doc.sc.gov/programs/substance.jsp> (last visited Dec. 15, 2015).

We therefore reverse the court of appeals' affirmance of the trial court's order with respect to the first declaration. On remand, Thompson and the State are entitled to a hearing to determine whether Thompson's kidnapping offenses were sexual in nature. At that hearing, the court should allow the victims' to testify if they so desire, and should consider the victims' opinions.

## ***II. Future Sex Offender Registration***

In *Hazel v. State*, we held that a person convicted of kidnapping could not challenge whether he was required to register as a sex offender until the date of his release from prison, because that issue is entirely dependent on the sex offender registry statute in existence at that time. 377 S.C. 60, 64, 659 S.E.2d 137, 139 (2008) (detailing the history of the sex offender registry as it related to kidnapping offenses). Here, Thompson will not be released from prison until 2020. Because there is no way to determine whether the General Assembly will amend section 23-3-430(C)(15) prior to 2020, a declaration that Thompson is not required to register as a sex offender in the future would be purely advisory. Thus, the second declaration does not present a justiciable controversy, and we affirm the court of appeals' decision with regards to the second declaration.

## ***III. SCDC Classification***

Because Thompson has not yet exhausted the SCDC's internal grievance procedures, we decline to address this issue. *Al-Shabazz*, 338 S.C. at 375, 527 S.E.2d at 753 (finding that with respect to an inmate's sentence, sentence-related credits, or custody status, "[i]nitiating a grievance is a method an inmate uses to challenge such decisions within the prison system"). Once Thomson receives his requested hearing regarding the nature of his kidnapping offenses, and once he attempts to have the SCDC modify his classification through the grievance system, he may obtain judicial review of this issue. *See id.*

## **CONCLUSION**

For the foregoing reasons, we reverse the court of appeals' decision affirming the circuit court's refusal to address whether Thompson's kidnapping offenses did not involve a sexual element, and remand for a hearing on this issue. However, because the issue of whether Thompson will be required to register as a sex offender upon his release from prison is not yet ripe, and because the SCDC's classification of Thompson as a sex offender in prison is subject to internal grievance procedures, we affirm the court of appeals' decision with respect to those

two issues, and allow Thompson to file a grievance with the SCDC to become reclassified in the SCDC's system.

**AFFIRMED IN PART, REVERSED IN PART.**

**BEATTY, KITTREDGE, and HEARN, JJ., concur. PLEICONES, C.J., concurring in result only.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Clifford Thompson, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case No. 2010-161446

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Appeal From Berkeley County  
R. Markley Dennis, Jr., Circuit Court Judge

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Opinion No. 5244  
Submitted September 1, 2013 – Filed June 30, 2014

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**AFFIRMED**

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Clifford Thompson, pro se.

Attorney General Alan McCrory Wilson, Chief Deputy  
Attorney General John W. McIntosh, Assistant Deputy  
Attorney General David A. Spencer, Assistant Attorney  
General Geoffrey Kelly Chambers, and Assistant  
Attorney General Kristin M. Simons, all of Columbia, for  
Respondent.

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**FEW, C.J.:** Clifford Thompson appeals the circuit court's order dismissing his declaratory judgment action. In that action, he sought a declaration that his kidnapping convictions did not include a criminal sexual offense and would not require him to register as a sex offender. Thompson argues the circuit court erred

in ruling (1) no justiciable controversy existed;<sup>1</sup> (2) it did not have subject matter jurisdiction to change Thompson's prison classification based on *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (1999); and (3) Thompson's claims were moot. We affirm.<sup>2</sup>

Thompson pled guilty to four kidnapping and six armed robbery offenses in 2001, and the court sentenced him to twenty-five years in prison. At that time, a person convicted of kidnapping was required to register as a sex offender when released from prison "except when the court makes a finding . . . the offense did not include a criminal sexual offense." S.C. Code Ann. § 23-3-430(C)(15) (Supp. 2000); *see also* S.C. Code Ann. §§ 23-3-430(A), -440(1) (Supp. 2000). The sentencing court did not determine whether any of the kidnappings included a criminal sexual offense. Thompson appealed, and this court affirmed all of his convictions except one kidnapping and one armed robbery. *State v. Thompson*, Op. No. 2003-UP-252 (S.C.Ct.App. filed Apr. 3, 2003).

In 2009, Thompson filed this action. We find the circuit court properly determined no justiciable controversy existed and dismissed the action because the question of whether Thompson should be required to register as a sex offender is not ripe for adjudication. *See Pee Dee Elec. Coop., Inc. v. Carolina Power & Light Co.*, 279 S.C. 64, 66, 301 S.E.2d 761, 762 (1983) ("Before a court may render a declaratory judgment, an actual, justiciable controversy must exist. A justiciable controversy is a real and substantial controversy [that] is ripe and appropriate for judicial determination, as distinguished from a contingent, hypothetical or abstract dispute."). This case does not present a justiciable controversy because the current statutes requiring registration do not contemplate that Thompson will register until he is released from prison.<sup>3</sup> *See* S.C. Code Ann. § 23-3-430(A) (2007) ("Any

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<sup>1</sup> Thompson presented this issue as two separate issues, but we believe combining them into one enables us to more accurately address the point he raises.

<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

<sup>3</sup> Thompson's projected release date is August 5, 2020, and he is not currently registered on the sex offender registry. Offender Search, S.C. Law Enforcement Div., <http://www.icrimewatch.net/index.php?AgencyID=54575&disc=> (agree to terms and conditions; then follow "Continue" hyperlink; then follow "Name" hyperlink; then search Clifford Thompson's name) (last visited Jun. 30, 2014). Although the record contains a printout from the Department of Corrections' website indicating Thompson is to be included in the sex offender registry, the

person . . . who . . . has been convicted of . . . an offense described below . . . shall be required to register pursuant to the provisions of this article."); S.C. Code Ann. § 23-3-430(C)(15) (Supp. 2013) (listing "kidnapping" as an offense requiring registration "except when the court makes a finding . . . the offense did not include a criminal sexual offense"); S.C. Code Ann. § 23-3-440 (1) (2007) ("The Department of Corrections . . . shall provide verbal and written notification to the offender that he must register with the sheriff of the county in which he intends to reside within one business day of his release."). Moreover, "the applicable statute [for determining whether a person must register] is the statute that exist[s] at the time of [that person's] release from prison," and thus it is unknown whether Thompson will be required to register. *Hazel v. State*, 377 S.C. 60, 64, 659 S.E.2d 137, 139 (2008).<sup>4</sup> Because the law does not require Thompson to register as a sex offender until he is released from prison, and because the sex offender registry statute may be amended between now and Thompson's release, we find the circuit court properly dismissed Thompson's action. Therefore, we do not reach the merits of Thompson's claim.

Thompson's claim will become ripe for adjudication when he is released from prison, if he is then required by law to register. The plaintiff in *Hazel* was convicted of kidnapping in 1979 and released from prison on parole in 2002. 377 S.C. at 62, 659 S.E.2d at 138. "Upon release, he was informed that he would be required to register on the Sex Offender Registry." *Id.* He later filed an action in circuit court claiming he should not be required to register. *Id.* "The court granted

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Department of Corrections recently updated its website, and the website no longer indicates Thompson will be required to register. Inmate Search Detail Report, S.C. Dep't of Corr. Incarcerated Inmate Search, <http://public.doc.state.sc.us/scdc-public/inmateDetails.do?id=00274805> (last visited Jun. 30, 2014).

<sup>4</sup> The sex offender registry statutes have been amended many times since their enactment. *See* § 23-3-430(C) (enacted by Act No. 497, § 112A, 1994 S.C. Acts 5794-98; amended by Act No. 444, § 16, 1996 S.C. Acts 2684-90; Act No. 384, § 1, 1998 S.C. Acts 2302-2311; Act No. 74, § 1, 1999 S.C. Acts 244-45; Act No. 363, § 2, 2000 S.C. Acts 2444; Act No. 208, § 14, 2004 S.C. Acts 1930-31; Act No. 141, § 2, 2005 S.C. Acts 1608-11; Act No. 212, § 3, 2010 S.C. Acts 1517-19; Act No. 289, § 8, 2010 S.C. Acts 2112-13; and Act No. 255, § 5, 2012 S.C. Acts 2043-45). Many of the amendments have related to the status of kidnapping as a registration-triggering offense. *See Hazel*, 377 S.C. at 63-64, 659 S.E.2d at 139 (analyzing amendments to the sex offender registry statutes and noting kidnapping has been deleted from and added to the list of offenses that require registration).

[Hazel]'s motion for declaratory judgment and found that [he] is not required to register as a sex offender." 377 S.C. at 63, 659 S.E.2d at 138. The supreme court held the circuit court had jurisdiction to hear the dispute and affirmed. 377 S.C. at 65, 659 S.E.2d at 140. Under *Hazel*, therefore, if Thompson is required upon release from prison to register as a sex offender, he may file a declaratory judgment action at that time to litigate the propriety of the requirement.<sup>5</sup>

As to Thompson's other issues on appeal, the circuit court properly determined any issue relating to Thompson's classification as a sex offender by the Department of Corrections must first be addressed through administrative proceedings. *See Al-Shabazz*, 338 S.C. at 375-78, 527 S.E.2d at 753-55 (noting an inmate must initiate a grievance within the Department of Corrections to challenge his custody status, and holding an inmate can seek judicial review only after the administrative law court has issued a final decision). Thompson also argues the circuit court erred in finding his claims were moot. We do not address this issue because the circuit court did not make such a finding in its order.

**AFFIRMED.**

**KONDUROSO, J., concurs.**

**THOMAS, J., dissenting:** The majority maintains the circuit court correctly dismissed this action because no justiciable controversy existed and any issue relating to Thompson's classification as a sex offender by the Department of Corrections must be addressed through administrative proceedings. I respectfully dissent.

Initially, I disagree with the majority's position that Thompson failed to present a ripe issue because no justiciable controversy existed at the circuit court. "Before any action can be maintained, there must exist a justiciable controversy." *Byrd v. Irmo High Sch.*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). "A justiciable

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<sup>5</sup> We recognize the sex offender registry, specifically section 23-3-430(C)(15), did not exist when Hazel pled guilty in 1979. Therefore, the sentencing court in *Hazel*, unlike here, did not have the opportunity to determine whether the kidnapping included a criminal sexual offense. The difference is not significant, however, because in both cases the only version of the statute applicable to the requirement for registration is the one in effect on the date of release. *See Hazel*, 377 S.C. at 64, 659 S.E.2d at 139 (holding "[s]ection 23-3-430[(C)(15)] had no effect . . . until [the person] was released from prison").

controversy is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute or difference of a contingent, hypothetical or abstract character." *Id.* at 430-31, 468 S.E.2d at 864. Specifically, the majority maintains this case does not present a justiciable controversy because the substance of the statute requiring registration is unknown until an inmate is released from incarceration. In my view, the controversy in this case does not arise from whether or not Thompson must register as a sex offender, but rather whether he should be classified as a sex offender.<sup>6</sup> Undoubtedly, Thompson will not be affected by having to register as a sex offender until he is released from prison, since an inmate is not required to register until their release. *See Hazel*, 377 S.C. at 64, 659 S.E.2d at 139 (noting a defendant is not required to register as a sex offender pursuant to section 23-3-430 until the defendant is released from prison). However, an inmate's classification as a sex offender, which in the case of kidnapping under the current statute is the default when the circuit court fails to make a finding regarding the sexual nature of the kidnapping, could have immediate and harmful ramifications.<sup>7</sup> *See* S.C. Code Ann. § 23-3-430 (Supp. 2013). Accordingly, I respectfully disagree with the majority and would hold the circuit court erred in finding Thompson failed to present a justiciable controversy.

I would also hold the circuit court erred in finding any issue relating to Thompson's classification must be addressed through administrative proceedings. Generally, issues regarding custodial status within the Department of Corrections are administrative in nature and therefore are properly determined before the administrative body. *See Al-Shabazz v. State*, 338 S.C. 354, 368-69, 527 S.E.2d 742, 749-50 (2000). However, in my view, classification as a sex offender is not a custodial status; therefore, the current challenge was properly brought before the

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<sup>6</sup> I distinguish *Hazel v. State*, 377 S.C. 60, 659 S.E.2d 137 (2008), from the current case because unlike *Hazel*, where the supreme court faced the question of the applicable statute as to sex offender registration, the instant case deals with the immediate ramifications of being labeled a sex offender. *Hazel* did not face such ramifications because, as the majority notes, the sex offender registry did not exist when *Hazel* pled guilty in 1979.

<sup>7</sup> While not in the record on appeal, a simple review of the South Carolina Department of Corrections's website reveals an individual with a "current or past sex crime[] conviction" is ineligible for substance abuse services and the "90 Day Pre-Release Program." *See Division of Behavioral Health & Substance Abuse Services*, S.C. Dep't of Corr., <http://www.doc.sc.gov/pubweb/programs/substance.jsp> (last visited June 20, 2014).

circuit court. Moreover, even if such a classification is considered a "custodial status," at least in the case of kidnapping, that status is a direct result of the circuit court's finding or failure to make any finding, that the offense was a criminal sexual offense. *See* S.C. Code Ann. § 23-3-430 (Supp. 2013). Thus, any attempt by Thompson to challenge his status as a sex offender through the inmate grievance process would be futile in that the Department of Corrections is bound by the effect of the circuit court's decision<sup>8</sup> regarding whether his kidnapping conviction was sexual in nature. Based on the foregoing, I would reverse and remand because the circuit court erred in finding the instant case does not present a justiciable controversy and Thompson must institute administrative proceedings to challenge his status as a sex offender. Accordingly, I respectfully dissent.<sup>9</sup>

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<sup>8</sup> I use the term "decision" loosely because, as previously noted, pursuant to section 23-3-430(C)(15), the circuit court's failure to make a sex offender determination in the kidnapping context results in the defendant's designation as a sex offender.

<sup>9</sup> While the majority does not reach the mootness issue, based on the record, I would hold this case is not moot. The majority cites a recent update to the Department of Corrections's website; however, this update is not evidence in the record on appeal. Rather, there is no evidence in the record indicating Thompson is no longer considered a sex offender, and therefore that "a judgment rendered by the court [would] have no practical legal effect upon an existing controversy." *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 26, 630 S.E.2d 474, 477 (2006).