

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

CEDRIC L. WOODS #265789,  
PETITIONER,

v.

STATE OF SOUTH CAROLINA,  
DEFENDANT.

IN THE COURT OF COMMON PLEAS

SECOND JUDICIAL CIRCUIT

**ORDER DENYING PETITION FOR  
DECLARATORY JUDGMENT**

2014-CP-02-00784

EX REL: 2000-GS-02-00493,  
2000-GS-02-00494, 2000-GS-02-495 and  
2000-GS-02-00496

FILED 10 25 16  
Clerk of Court  
Aiken County SC

This matter comes before the Court on the Petition of Cedric Lloyd Woods, who requests an order of this Court finding that he should not be required to register as a sex offender following his eventual release from incarceration. A hearing was held at the Aiken County Courthouse on September 21, 2016. The Petitioner was present for the hearing and was represented by his attorney, Lance Boozer. The State was represented at the hearing by Deputy Solicitor David Miller. After hearing from the parties and considering the record in this matter, I find that the Petition should be denied for the reasons outlined below.

Procedural History

The Petitioner was Indicted by the Aiken County Grand Jury during the February 28, 2000 term of Aiken County General Sessions for Attempted Armed Robbery (2000-GS-02-493), Kidnapping (2000-GS-02-494), Criminal Sexual Conduct 1<sup>st</sup> Degree (2000-GS-02-495), Burglary 1<sup>st</sup> Degree (2000-GS-02-496) and four (4) counts of Possession of a Weapon During the Commission of a Violent Crime (2000-GS-02-533, 534, 535, and 536). He was represented at trial by John Harte.

Petitioner was tried by a jury before the Honorable Thomas W. Cooper, Jr., Circuit Court Judge, from April 17-19, 2000. On April 19, 2000, Petitioner was found guilty of Attempted Armed Robbery, Kidnapping, Assault and Battery of a High and Aggravated Nature (as a lesser included offense of CSC 1<sup>st</sup> Degree), and Burglary 1<sup>st</sup> Degree. Petitioner was acquitted on the charges of possessing a weapon during commission of a violent crime. Petitioner was sentenced to concurrent sentences of 30 years on the Burglary 1<sup>st</sup> and kidnapping convictions, and 20 years

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on the Attempted Armed Robbery Conviction. He was sentenced to 10 years on the ABHAN conviction, to run consecutive to the Burglary 1<sup>st</sup> sentence.

#### Factual Allegations

The testimony offered at trial is summarized as follows. The victim testified that on June 12, 1999, she returned home from work between 8:15-8:30 a.m. When she entered her apartment, a man jumped from her downstairs bathroom and attacked her. He had on a black mask, black jeans, black socks, a black and white Nike jacket, and no shoes. She struggled with him, but he had a knife in his hand. Her hand was cut during the struggle. During the struggle, the man told the victim that he needed money. When she told him that she did not have any money, he pulled the back of the victim's shirt over her head covering her face. He then told the victim not to scream as he forced her upstairs. The victim testified that she recognized the man's voice as being Petitioner's voice. The victim further testified that after they went upstairs into her bedroom, Petitioner blindfolded her. Petitioner told the victim to take off her clothes, and he continued to tell the victim he needed money. The victim also indicated that when she hesitated in taking off her clothes, Petitioner reminded her that he had a knife. After a short period of time, Petitioner started kissing and rubbing down the victim's body. Petitioner then got on top of the victim and had sex with her. While continually reminding the victim that he the knife, he forced the victim to perform oral sex on him. After a bathroom break, Petitioner again had sex with the victim. Shortly afterwards, Petitioner told the victim to get into the bath tub. He told the victim to wash. He left the apartment shortly thereafter. The victim identified Petitioner as her attacker in court.

At the emergency room, medical personnel attempted to collect evidence for a SLED sexual assault kit. No DNA, semen, or blood from Petitioner was found when the sexual assault kit and the victim's clothing were examined by SLED. Investigator Nimau of the Aiken County Sheriff's Office testified they found a wallet with Petitioner's South Carolina ID card and Social Security card in the upstairs bathroom. He also indicated that the victim informed him that the person who assaulted her used to live at the apartment complex. Petitioner and his wife used to live in the same apartment complex as the victim. Petitioner's fingerprint was also found on the doorknob on the inside of the downstairs bathroom. Petitioner's wife identified her car as being in a photograph that was taken on the day of the assault. She noted that Petitioner had taken the car for a period of time that weekend.

Petitioner presented a defense at trial. He testified that he and the victim were having an affair. He denied assaulting the victim, threatening her with a knife, or trying to take her money from her.

In reply, the victim testified the knife she saw was from her kitchen, and it was never recovered. Also, Investigator Nimau testified that when Petitioner was arrested, he blurted out, "it wasn't him, he was being framed". Petitioner claimed he had never been in the victim's apartment.

### Declaratory Judgment

Pursuant to South Carolina's Uniform Declaratory Judgments Act (the Declaratory Judgment Act),<sup>1</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. "A declaratory judgment action is neither legal nor equitable..." *Auto Owners Ins. Co. v. Newman*, 385 S.C. 187, 191, 684 S.E.2d 541, 543 (2009) (citing *Colleton County Taxpayers Ass'n v. Sch. Dist. of Colleton County*, 371 S.C. 224, 231, 638 S.E.2d 685, 688 (2006)). "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>2</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*

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<sup>1</sup> S.C. Code Ann. §§ 15-53-10 to -140 (2005 & Supp.2014).

<sup>2</sup> Section 23-3-430 is found in the portion of the South Carolina Code encompassing South Carolina's sex offender registry. 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. Ozmini*, 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))).

*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).

In *Hazel v. State*, the South Carolina Supreme Court 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).

“Whether an individual must be placed on the sex offender registry is a question of law.” *Lozada v. S.C. Law Enforcement Div.*, 395 S.C. 509, 512, 719 S.E.2d 258, 259 (2011). See generally *Noisette v. Ismail*, 299 S.C. 243, 247, 384 S.E.2d 310, 312 (Ct.App.1989) (“Unless the cause of action and the relief sought in a declaratory judgment action are distinctly equitable, the action will be considered one at law.”).

#### Legal Analysis

In 1994, the South Carolina General Assembly created a central registry of information on persons convicted of sex related offenses and kidnapping. The purpose of the registry was to assist in investigating sex related crimes and in apprehending offenders. To that end, Chapter 3 of Title 23 of the South Carolina Code was amended to add Article 7, Sex Offender Registry<sup>3</sup>. Pursuant to the Act, “[A]ny person, regardless of age, residing in the State of South Carolina who in this State has been convicted of... an offense described below... shall be required to register pursuant to the provisions of this article.” S.C. Code §23-3-430 (1976), as amended. Section 23-3-430(C) sets forth the qualifying offenses for registration. Kidnapping is included in the list of qualifying offenses, with certain conditions. Specifically, the statute provides, “kidnapping (Section 16-3-910) of a person eighteen years of age or older *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*” S.C. Code §23-3-430(C)(15)(emphasis added). The plain language of section 23-3-420(15) creates a presumption that the offender must register unless the court makes a separate finding the

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<sup>3</sup> The Act has subsequently been amended on multiple occasions, with the exception of the 1999 amendment, discussed further below, these amendments have no bearing on the determination of the Court in this matter.

kidnapping did not involve a criminal sexual offense *or an attempted criminal sexual offense*<sup>4</sup>. Thus, the onus is on the Petitioner to demonstrate to the court that the offense did not have sexual undertones.

The Petitioner has made no showing that the trial court made any finding on the record following his trial in 2000 that his conviction for Kidnapping did not include a criminal sexual offense or an attempted criminal sexual offense. In fact, it does not appear from a review of the trial transcript that the issue was ever raised for Judge Cooper to make a finding. Accordingly, this Court has reviewed the record before it and considered the arguments presented at the hearing. Following that review, it is abundantly clear that the crimes for which the Petitioner was convicted did, in fact, involve a criminal sexual offense or an attempted criminal sexual offense.

Petitioner was indicted for Criminal Sexual Conduct in the 1<sup>st</sup> Degree, but was ultimately found guilty of Assault and Battery of a High and Aggravated Nature (ABHAN) on that indictment. Petitioner contends that refusal of the jury to convict him on the CSC charge as it was indicted can only be interpreted to mean that the State failed to establish any unlawful sexual conduct on his part. Based upon the testimony of the victim presented at the trial of this case, it is clear to this court that the Defendant's conduct during the commission of this crime constituted, at a minimum, an attempt to commit a criminal sexual offense. Furthermore, Section 23-3-430(D), which was also in effect at the time of the alleged offense, provided, in relevant part: "Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor". Accordingly, the Defendant's conviction for the offense of Assault and Battery of a High and Aggravated Nature likewise justifies requiring the Defendant's registration pursuant to the Act under the circumstances of this case.

There is ample evidence in the record that the crimes Defendant was convicted of, including the conviction for Kidnapping, included a criminal sexual offense or an attempted criminal sexual offense.

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<sup>4</sup> Section 23-3-430(c) was amended effective June 11, 1999 to include attempted criminal sexual offenses. Prior to that date, the kidnapping had to include a criminal sexual offense. The incident giving rise to these charges occurred on June 12, 1999, the day after the amendment to the statute became effective.

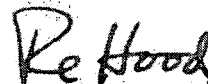
Having found Woods' Kidnapping and ABHAN included a criminal sexual offense or an attempted criminal sexual offense, this Court must determine whether Woods is entitled to declaratory judgment on the issue of whether his convictions require him to register as a sex offender upon his release from incarceration. Based upon information obtained from the South Carolina Department of Corrections website, Petitioner will not be released from prison until 2024. Because there is no way to determine whether the General Assembly will amend South Carolina Code §23-3-430(C)(15) prior to 2024, any declaration that Woods is or is not required to register as a sex offender in the future would be purely advisory. Thus, Woods request for a declaratory judgment that he not have to register as a sex offender upon his release does not present a justiciable controversy, and this Court makes no determination of that issue.

#### Conclusion

Based on the foregoing, I hereby find:

1. This Court has jurisdiction over the parties and the subject matter of this action; and,
2. The Petitioner's conviction for Kidnapping involved an attempted criminal sexual offense; and,
3. The Petitioner's conviction for Assault and Battery of a High and Aggravated Nature, under these circumstances, included a sexual offense or attempted sexual offense that *currently* constitutes good cause for requiring his registration pursuant to the Act under §23-3-430(D); however, the issue is not ripe for adjudication at this time.
4. Accordingly, this Court makes no determination regarding whether the Petitioner is to be required to register as a Sex Offender pursuant to the Act upon his release from incarceration.

IT IS SO ORDERED.



Robert E. Hood,  
Presiding Judge,  
Second Judicial Circuit

Columbia, South Carolina  
September \_\_, 2016

October 14, 2016

STATE OF SOUTH CAROLINA )  
 COUNTY OF AIKEN )  
 Cedric Woods, )  
 Plaintiff(s), )  
 -vs- )  
 South Carolina State Of, )  
 Defendant(s). )

IN THE COURT OF COMMON PLEAS  
 Second JUDICIAL CIRCUIT  
 CASE NO.: 2014CP0200784  
 APPOINTMENT OF COUNSEL OR GAL  
 (Select one.)

ORDER  
 AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

- Post-Conviction Relief (PCR)/habeas case     Adoption     Juvenile  
 SVP case     Custody and/or Visitation     Abuse and Neglect  
 Minor Name Change     Other: Inmate Pet/Other 599

It appears Cedric Woods, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.  
 counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on:  
 counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.  
 court appointed counsel has obtained, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.  
 Other: .

Therefore, it is ordered that Lance Boozer hereby is appointed as (Select one.)

counsel     lead counsel (if capital PCR case)     guardian ad litem  
 for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

(If Death Penalty PCR Case) It is further ordered that, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED  
 October 27, 2014

*[Signature]*  
 Circuit Judge     Clerk of Court

Plaintiff Attorney:

Lance Boozer	Cedric L Woods # 265789
807 Gervais St Ste 201 <sup>2</sup>	Allendale CI F 3B 15
Columbia SC 29201	1057 Revolutionary Trail
	Fairfax, SC 29827

Defendant Attorney:

David Warren Miller	<i>[Signature]</i> 10.28.14
PO Drawer 3368	<i>[Signature]</i> P.C.P. & G.S.
Aiken, SC 29802-3368	<i>[Signature]</i> Deputy Clerk

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OJD within fifteen (15) days of this appointment at [www.sccid.sc.gov](http://www.sccid.sc.gov), and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

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