

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

State of South Carolina, )

vs. )

David Wilkin Ross, )

Defendant. )

IN THE COURT OF GENERAL SESSIONS

THIRTEENTH JUDICIAL CIRCUIT

ORDER

1979-GS-23-1758

FILED CLERK OF COURT  
PAUL E. TUCKER, CLERK  
GREENVILLE CO. SC

2015 NOV 23 AM 11:06

This matter comes before the Court upon Motion of the South Carolina Department of Probation Parole and Pardon Services to require electronic monitoring of the Defendant pursuant to Section 23-3-540(E) of the South Carolina Code of Laws, 1976, as amended. The Defendant objects to GPS monitoring, arguing that the US Supreme Court case of *Grady v. North Carolina* 135 S.C.T. 1368 (2015) requires that the trial court make a specific determination of the reasonableness of GPS imposition within the context of a search and seizure. The State argues that the imposition of GPS monitoring is mandatory under the relevant statute and that the trial court has no discretion in ordering GPS monitoring.

This Court has heard arguments from the parties, reviewed all submissions and memoranda of law, and reviewed the relevant case law. The South Carolina Supreme Court has reviewed the constitutionality of the mandatory imposition of GPS monitoring for sex offenders in *State v. Dykes*, 403 S.C. 499 (2013). The Court specifically found that the mandatory imposition of GPS monitoring was a reasonable exercise of government authority under a constitutional due process analysis. The US Supreme Court's holding in *Grady v. North Carolina* simply holds that the several states must review the civil remedies in the context of constitutional due process and citizens' reasonable expectations of privacy. Unlike North

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Carolina, the Supreme Court in the State of South Carolina has analyzed this issue within the constitutional due process context prescribed by the US Supreme Court.

THEREFORE, the Court finds that the Defendant is required to register as a sex offender for Committing or Attempting a Lewd Act Upon a Child Under Sixteen pursuant to Section 16-15-140 of the South Carolina Code of Laws, 1976 as amended. Furthermore, Section 23-3-540(E) of the South Carolina Code mandates that this Court order the Defendant be monitored by the South Carolina Department of Probation, Parole and Pardon Services, with an active electronic monitoring device.

AND IT IS SO ORDERED.



ROBIN B. STILWELL

November 23, 2015  
Greenville, South Carolina

2015