

p. andrew anderson

kristina m. anderson\*

\*Licensed in SC & GA

anderson <sup>plc</sup> anderson <sup>llp</sup>

trial attorneys and counselors at law

March 8, 2019

S.C. Court of Appeals  
Attn: Jenny Abbott Kitchings, Clerk  
P.O. Box 11629  
Columbia, South Carolina 29211

RECEIVED  
MAR 11 2019  
SC Court of Appeals

RE: *South Carolina Law Enforcement Division (SLED) v. Brandon Reed*  
*Case No.: 2018-CP-02-00670*

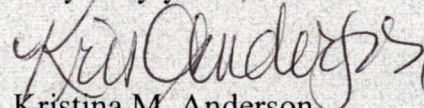
**Appellate Case No.: 2019-000327**

Dear Ms. Kitchings:

Pursuant to the Court's letter dated March 6, 2019, I am enclosing a copy of the November 9, 2018, Order issued in the above-referenced case.

Please advise if you need any additional information.

Very truly yours,

  
Kristina M. Anderson

KMA/twm  
Enclosures

cc: Harley Littlejohn Kirkland, Esquire  
Assistant Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )  
South Carolina Law Enforcement Division, )  
 )  
Petitioner/Plaintiff, )  
 )  
v. )  
 )  
Brandon Reed, )  
 )  
Respondent/Defendant. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2018-CP-02-00670

**RECEIVED**

**MAR 11 2019 ORDER**

**SC Court of Appeals**

**THIS MATTER** comes before the court pursuant to Petitioner’s/Plaintiff’s Motion for Summary Judgment filed on June 14, 2018, seeking a summary judgment order on its Declaratory Judgment Action and Respondent’s/Defendant’s Motion to Dismiss or in the Alternative for Summary Judgment filed on July 16, 2018, seeking to dismiss Petitioner’s/Plaintiff’s Declaratory Judgment Action. A hearing on the matter was conducted on September 24, 2018. Appearing at the hearing were Harley Kirkland and T. Parkin Hunter, counsel for Petitioner/Plaintiff South Carolina Law Enforcement (“SLED”), and Kristina M. Anderson, counsel for Respondent/Defendant Brandon Reed (“Mr. Reed”). Based on the documents on file and the arguments heard, the court makes the following findings of fact and conclusions of law:

**Background**

In 1994, Mr. Reed was adjudicated a delinquent for a single count of criminal sexual conduct with a minor (1<sup>st</sup> Degree) at the age of twelve (12) by the Aiken County Family Court. Pl.’s Mem. Supp. Summ. J. 1 & Ex. A-B. Also in 1994, the General Assembly enacted the South Carolina Sex Offender Registry Act, which created the Sex Offender Registry (“SOR”) and delegated to SLED the responsibility of maintaining the SOR. 1994 S.C. Act 497 (H.B. 4820) (enacting S.C. Code Ann. §§ 23-3-400 *et. seq.*). At that time, Mr. Reed was not required to register

with the SOR due to his adjudication as a delinquent in Family Court. However, in 1996, the SOR was extended to encompass persons, regardless of age, who have been adjudicated delinquent. 1996 S.C. Act 444 (S.B. 1286) (amending S.C. Code Ann. § 23-3-430). Subsequently, Mr. Reed was placed on the SOR pursuant to the newly amended S.C. Code Ann. § 23-3-430. Over twenty-two (22) years later on February 15, 2017, Mr. Reed filed a Motion for Removal from the SOR in the Aiken County Family Court and served the motion upon the Second Circuit Solicitor's office. Def.'s Mem. Supp. Mot. Dismiss 1, 2, 3 & Ex. 1. After a Notice of Hearing was served upon the State through the Second Circuit Solicitor's office on February 24, 2017, a hearing occurred on March 7, 2017, where the State appeared and did not consent to or object to Mr. Reed's removal from the SOR. Mot. Hr'g Tr. 8, Mar. 7, 2017<sup>1</sup>. Counsel for Mr. Reed, presumably to seek input or revisions, provided a proposed order to SLED prior to any order being filed by the Aiken County Family Court, but SLED provided no substantive input other than "the state would challenge were it granted". Def.'s Mem. Supp. Mot. Dismiss 2, 3 & Ex. 3. On April 26, 2017, the Aiken County Family Court issued its Order (the "Order") mandating that Mr. Reed be removed from the SOR immediately. Pl.'s Mem. Supp. Summ. J. 1 & Ex. A. No motions were filed with the Aiken County Family Court by any party or entity after this Order was entered.

On March 22, 2018, SLED filed this action pursuant to the Uniform Declaratory Judgments Act, S.C. Code Ann. § 15-53-10, *et seq.*, seeking relief from the Aiken County Family Court's Order due to the Order being "void" for lack of subject matter jurisdiction and personal jurisdiction. As a result, the parties filed the aforementioned dispositive motions and supporting memoranda with accompanying exhibits.

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<sup>1</sup> Subsequent to the hearing on September 24, 2018, the court requested from the parties, *inter alia*, the transcript to the motion hearing held on March 7, 2017. The court's request along with the transcript are attached as Exhibit A and Exhibit B, respectively.

**Relief under the Uniform Declaratory Judgments Act**

The Uniform Declaratory Judgments Act provides:

Courts 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. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect. Such declarations shall have the force and effect of a final judgment or decree.

S.C. Code Ann. § 15-53-20 (2017).

To fall within the intended purpose and scope of the Uniform Declaratory Judgments Act, the parties must seek adjudication of a justiciable controversy. Sunset Cay, LLC v. City of Folly Beach, 357 S.C. 414, 423, 593 S.E.2d 462, 466 (2004); Tourism Expenditure Review Comm. v. City of Myrtle Beach, 403 S.C. 76, 81, 742 S.E.2d 371, 373–74 (2013). Declaratory judgment actions are neither legal nor equitable and, therefore, the standard of review depends on the nature of the underlying issues. Doc v. South Carolina Medical Malpractice Liability Joint Underwriting, 347 S.C. 642, 645, 557 S.E.2d 670, 672 (2001); Judy v. Martin, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009)

**Family Court Subject Matter Jurisdiction**

SLED's primary contention is that Aiken County Family Court's subject matter jurisdiction over Mr. Reed had already expired when Mr. Reed sought removal from the SOR in 2017 and as a consequence, Aiken County Family Court's Order removing Mr. Reed from the SOR is void. This court agrees.

The Family Court's subject matter jurisdiction is statutorily provided for by the General Assembly and sets out parameters for handling minors. In re Shaquille O'Neal B., 385 S.C. 243, 246, 684 S.E.2d 549, 551 (2009) (providing that the Family Court "is a statutory court created by

the legislature and, therefore, is of limited jurisdiction [and its] jurisdiction is limited to that expressly or necessary implication conferred by statute”).

S.C. Code Ann. § 63-3-510(B) (2017) provides that “[w]henver the court has acquired the jurisdiction of any child under seventeen years of age, jurisdiction continues so long as, in the judgment of the court, it may be necessary to retain jurisdiction for the correction or education of the child, but jurisdiction shall terminate when the child attains the age of twenty-one years.” (emphasis added).

Subject matter jurisdiction is based on a court’s “power to hear and determine cases of the general class to which the proceedings in question belong.” Coon v. Coon, 356 S.C. 342, 348, 588 S.E.2d 624, 627 (Ct. App. 2003), aff’d as modified, 364 S.C. 563, 614 S.E.2d 616 (2005) (citing Watson v. Watson, 319 S.C. 92, 93, 460 S.E.2d 394, 395 (1995)). A void judgment is void from its inception and is without legal effect. Thomas & Howard Co. v. T.W. Graham and Co., 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995) (quoting 46 Am. Jur. 2d Judgments § 31 (1994)).

A void judgment encompasses judgments from courts that lack subject matter jurisdiction. McDaniel v. U.S. Fid. & Guar. Co., 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Ct. App. 1996) (internal quotations omitted); see also Ross v. Richland County, 270 S.C. 100, 103, 240 S.E.2d 649, 650 (1978) (holding that if ““a court is without jurisdiction of the subject matter, any action with respect to such a cause, other than to dismiss it, is absolutely void””); Coon, at 347, 588 S.E.2d at 627. Additionally, the issue of subject matter jurisdiction may not be waived and can be raised for the first time on appeal. In re Shaquille O’Neal B., at 246, 684 S.E.2d at 551.

Here, the Aiken County Family Court Order directing the removal of a thirty-three (33) year-old person from the SOR was filed approximately twelve (12) years after that court’s subject matter jurisdiction ceased. As such, the Order was at its filing, and remains, void. Moreover, the

fact that the State or SLED did not raise the issue of subject matter jurisdiction until the present action is irrelevant, and it does not render the Order any less void.

**Family Court Personal Jurisdiction**

SLED argues that it was not a party to the proceedings in Aiken County Family Court and that because it was not a party to the proceeding, the Aiken County Family Court did not have personal jurisdiction over SLED. Because this court has determined that the Order is void for lack of subject matter jurisdiction, it need not rule on whether the Aiken County Family Court had personal jurisdiction. However, this court feels the need to comment on SLED's argument.

It is well established law that a judgment issued by a court acting without personal jurisdiction is void because an order or judgment "affecting the rights of a party . . . should be made or rendered [with] proper notice to the party whose rights are to be thus affected." Ex parte South Carolina Dept. of Revenue, 350 S.C. 404, 407, 566 S.E.2d 196, 198 (Ct. App. 2002) (internal citations omitted). Generally, personal jurisdiction is established with a court upon the service of a summons on a party. Id.

The court acknowledges that SLED specifically was not a party to the Aiken County Family Court proceeding, and SLED was not served with a Summons in that matter. SLED was not captioned as a party, and there is nothing to show that SLED was ever served with a Summons to provide it with notice that Mr. Reed sought to be removed from the SOR, a responsibility which falls under the direction of SLED pursuant to S.C. Code Ann. § 23-3-410 (2017). However, the court notes that SLED is an entity of the State created by statute. See S.C. Code Ann. § 23-3-10 (2017). The Second Circuit Solicitor is also an entity of the State created by statute. See S.C. Code Ann. §§ 1-7-310, 1-7-320, and 1-7-350 (2017). The Second Circuit Solicitor was served with a Summons providing the State notice of Mr. Reed's request for relief, and the Second Circuit

Solicitor did appear on behalf of the State in the proceeding and did not object to the relief sought by Mr. Reed. Further, SLED was given an opportunity to provide feedback on Mr. Reed's proposed order to the Family Court, and it declined to offer substantive feedback. In addition, the State, the Second Circuit Solicitor, and SLED failed to appeal the Aiken County Family Court's Order or file any motion for reconsideration. In fact, SLED failed to file any sort of appellate action seeking relief from the Order until March 22, 2018<sup>2</sup>. If SLED, with or without the involvement of the Second Circuit Solicitor's office, had taken the opportunity to provide substantive input to Mr. Reed regarding the proposed order, made an appropriate motion, or sought an appeal of the Order, this entire saga may have been avoided altogether.

### **Res Judicata/Collateral Estoppel**

Mr. Reed argues that SLED should be barred from seeking relief under the Uniform Declaratory Judgments Act based on the doctrines of res judicata and collateral estoppel as this matter was litigated previously and the Order was subsequently issued without appeal.

The purpose of the doctrine of res judicata is to "preclude relitigation of claims that were subject to judgment in a prior action where: (1) there is an identity of the parties or their privies, (2) there is an identity of the subject matter of the litigation, and (3) there was a final determination on the merits of the claim in the prior action." Nelson v. QHG of S.C. Inc., 354 S.C. 290, 303-04, 580 S.E.2d 171, 178 (Ct. App. 2003), aff'd in part, rev'd in part, 362 S.C. 421, 608 S.E.2d 855 (2005) (citing Wessinger v. Rauch, 288 S.C. 157, 159, 341 S.E.2d 643, 644 (Ct. App. 1986)).

Further, "[r]es judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between these

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<sup>2</sup> The court notes, however, that SLED filed a Petition for Original Jurisdiction with South Carolina Supreme Court to seeking to declare the Order void on September 1, 2017. Def.'s Mem. Supp. Mot. Dismiss 2, 3 & Ex. 6. This Petition for Original Jurisdiction with South Carolina Supreme Court was denied on December 14, 2017. Def.'s Mem. Supp. Mot. Dismiss 2, 3 & Ex. 7.

parties.” Id. at 304, 580 S.E.2d at 178 (citing Plum Creek Dev. Co. v. City of Conway, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999)). Res judicata exists to prevent a litigant from raising any issues that were adjudicated in a previous action and any issues that could have been raised in the previous action: Id.

Even when all of the elements of res judicata are met, res judicata should not be applied if it contravenes important public policies. Id. at 304–05, 580 S.E.2d at 178 (providing that the courts must weigh the competing public policies).

Similarly, the doctrine of collateral estoppel bars the relitigation of issues once a final judgment on the merits has been reached. Id. at 305, 580 S.E.2d at 179 (citing Richburg v. Baughman, 290 S.C. 431, 434, 351 S.E.2d 164, 166 (1986)). The issues must have been “actually and necessarily litigated” in the first suit in order for the same parties or their privies to be precluded from relitigating those issues. Id. ““When an issue of fact or law is actually litigated and determined by a **valid and final judgment**, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or different claim.”” State v. Bacote, 331 S.C. 328, 330, 503 S.E.2d 161, 162 (1998) (emphasis added).

The following are factors to consider in determining whether the doctrine of collateral estoppel exists and whether the issues were actually litigated in the first action: “whether privity exists, whether the doctrine is used offensively or defensively, and whether the party adversely affected had a full and fair opportunity to litigate the relevant issue effectively in the prior action.” Nelson, at 306, 580 S.E.2d at 179 (citing Pye v. Aycock, 325 S.C. 426, 436, 480 S.E.2d 455, 460 (Ct. App. 1997)). “Only a party to a prior action or one in privity with the party can be precluded

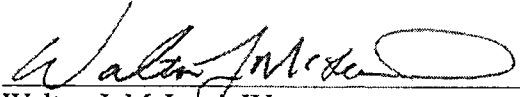
from relitigating an issue on the basis of offensive collateral estoppel.” Id. (citing Carrigg v. Cannon, 347 S.C. 75, 80, 552 S.E.2d 767, 770 (Ct. App. 2001)).

An exception exists to applying collateral estoppel where “circumstances justify affording him an opportunity to relitigate [an] issue” and “adverse impact of the determination on the public interests . . .” Pye, at 437-38, 480 S.E.2d at 460-61 (citing South Carolina Property & Cas. Ins. Guar. Ass'n v. Wal-Mart Stores, Inc., 304 S.C. 210, 403 S.E.2d 625 (1991)).

Here, Mr. Reed raises a sound argument for barring SLED’s action through application of res judicata and collateral estoppel principles, but ultimately the public policy concerns regarding the statutorily implemented SOR being altered pursuant to an order issued without subject matter jurisdiction convinces this court that neither of these two (2) doctrines should be triggered.

**THEREFORE, IT IS HEREBY ORDERED THAT** the Order is *void ab initio* due to the Aiken County Family Court’s lack of subject matter jurisdiction as statutorily provided<sup>3</sup>. As such, Mr. Reed’s Motion to Dismiss or in the Alternative for Summary Judgment is denied, and SLED’s Motion for Summary Judgment for Declaratory Judgment is GRANTED.

**IT IS SO ORDERED.**

  
Walton J. McLeod, IV  
Presiding Judge

November 9, 2018  
Aiken, South Carolina

<sup>3</sup> The court also notes that this ruling is specific to the Aiken County Family Court Order at issue in this matter and is not intended as guidance in any other case regarding removal from the SOR.

Exhibit A

**McLeod, Walton Law Clerk (Jeff Hopkins)**

---

**From:** Harley Kirkland <HKirkland@scag.gov>  
**Sent:** Friday, September 28, 2018 3:45 PM  
**To:** Kris Anderson; McLeod, IV, Walton  
**Cc:** McLeod, Walton Law Clerk (Jeff Hopkins)  
**Subject:** RE: SLED v. Reed  
**Attachments:** Transcript of Reed hearing (01707735xD2C78).pdf

Judge McLeod,

I just spoke with Penny Johnson, the court reporter and she said I could share the transcript with you and Kris, so it is attached. It states that there were no exhibits.

Sincerely,

Harley

**Harley L. Kirkland**  
Assistant Attorney General  
Office of the Attorney General  
State of South Carolina

Post Office Box 11549  
Columbia, South Carolina 29211  
Phone: 803.734.0406  
Fax: 803.734.3677  
E-mail: [HKirkland@scag.gov](mailto:HKirkland@scag.gov)

**From:** Harley Kirkland  
**Sent:** Friday, September 28, 2018 3:33 PM  
**To:** 'Kris Anderson'; McLeod, IV, Walton  
**Cc:** McLeod, Walton Law Clerk (Jeff Hopkins)  
**Subject:** RE: SLED v. Reed

Judge McLeod,

I don't think I am supposed to share copies of the transcript, so I reached out to Desiree Allen at Court Administration for clarification. Ms. Allen said that she will ask the court reporter, Penny Johnson, to send you a copy of the family court transcript.

Kris, thank you for sending the documents from the Supreme Court petition.

Sincerely,

Harley

**Harley L. Kirkland**  
Assistant Attorney General  
Office of the Attorney General

ELECTRONICALLY FILED - 2018 Nov 09 3:16 PM - AIKEN - COMMON PLEAS - CASE#2018CP0200670

State of South Carolina

Post Office Box 11549  
Columbia, South Carolina 29211  
Phone: 803.734.0406  
Fax: 803.734.3677  
E-mail: [HKirkland@scag.gov](mailto:HKirkland@scag.gov)

**From:** Kris Anderson [mailto:kanderson@andersonandanderson.com]  
**Sent:** Friday, September 28, 2018 3:03 PM  
**To:** McLeod, IV, Walton; Harley Kirkland  
**Cc:** McLeod, Walton Law Clerk (Jeff Hopkins)  
**Subject:** RE: SLED v. Reed

Judge McLeod: I am attaching SLED's Petition with exhibits as well as Brandon Reed's Return to the Petition and the Return filed for Alfred Edward Buice, another named defendant. We never received a copy of the hearing transcript/exhibits that would have been provided to SLED. (That means I am punting that request to you Harley.) Let me know if you need anything else on this end. Thank you. Kris

*Kristina M. Anderson*  
Anderson & Anderson LLP  
211 York Street, NE  
Aiken, South Carolina 29801  
803.648.6000 - telephone  
803.648.0888 - facsimile

**From:** McLeod, IV, Walton [mailto:wjmcleodj@sccourts.org]  
**Sent:** Friday, September 28, 2018 9:32 AM  
**To:** Kris Anderson <kanderson@andersonandanderson.com>; [hkirkland@scag.gov](mailto:hkirkland@scag.gov)  
**Cc:** McLeod, Walton Law Clerk (Jeff Hopkins) <[wjmcleodlc@sccourts.org](mailto:wjmcleodlc@sccourts.org)>  
**Subject:** RE: SLED v. Reed

**From:** McLeod, IV, Walton  
**Sent:** Friday, September 28, 2018 10:30 AM  
**To:** 'kanderson@andersonandanderson.com' <[kanderson@andersonandanderson.com](mailto:kanderson@andersonandanderson.com)>; 'kmaroney@scag.gov' <[kmaroney@scag.gov](mailto:kmaroney@scag.gov)>  
**Cc:** McLeod, Walton Law Clerk (Jeff Hopkins) <[wjmcleodlc@sccourts.org](mailto:wjmcleodlc@sccourts.org)>  
**Subject:** SLED v. Reed

Counsel,

The transcript request and Returns filed with Petition to the Supreme Court are referenced in the record but not present in full form. Please provide me with the transcript (and exhibits attached thereto) of the family court hearing, and the Returns submitted in the previously submitted petition. Thank you.

Sincerely,

Walton J. McLeod, IV  
Circuit Court Judge

205 E. Main Street  
Lexington, SC 29072  
OFFICE: (803) 785-8239  
FAX: (803) 785-8444

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I N D E X

(PW) - Denotes Plaintiff's Witness  
(DW) - Denotes Defense Witness

|                                         | <u>Page No.</u> |
|-----------------------------------------|-----------------|
| <u>(DW) BRANDON REED:</u>               |                 |
| Direct Examination by Mr. Anderson..... | 8               |
| Certificate of the Reporter.....        | 14              |

E X H I B I T S

(THERE WERE NO EXHIBITS SUBMITTED.)

P R O C E E D I N G S

1  
2 THE COURT: Madam Court Reporter, this is the matter  
3 of State of South Carolina vs. Brandon Reed. This case  
4 number is 1994-JU-02-396. We are here today because Mr.  
5 Anderson has filed a motion to have his client, Mr. Reed's  
6 name removed from the sex offender registry. Ms. McDaniel  
7 is here because she is the juvenile solicitor right now in  
8 this circuit. These orders --

9 MS. MCDANIEL: They're from before my time.  
10 Apparently, Assistant Solicitor Heidi Holland did the  
11 petition and then the plea was with Assistant Solicitor  
12 Tim Mehebert and Mr. Reed was represented by Public  
13 Defender Doug Novak.

14 THE COURT: Right. And Judge Inabinet signed the  
15 order and then in August of 1998, released Mr. Reed from  
16 his indefinite probation.

17 MS. MCDANIEL: Right. The plea was to an event of  
18 criminal sexual conduct, which required automatic  
19 registration. So no finding was ever made by the Court.  
20 It's one of those that statutorily just requires  
21 registration.

22 THE COURT: We actually had that discussion before  
23 y'all came in because I looked back through the file and  
24 did not ever see it.

25 MS. MCDANIEL: Hence, why we don't do the pleas

1 anymore, why they're always to assault and battery first  
2 or second degree, to avoid automatic registration leaving  
3 it open so we can seek it need be later on.

4 THE COURT: Which is exactly what I told everybody.  
5 Okay. Mr. Anderson.

6 MR. ANDERSON: Judge, in the gallery is Marsha  
7 Jackson. I've been working on this case for 17 years. I  
8 haven't seen Marsha in about 15 years or so, but she has  
9 been riding my fanny for 17 years.

10 MS. MCDANIEL: That's how long it takes Andy to do  
11 things.

12 MR. ANDERSON: Yes.

13 THE COURT: Who is she?

14 MR. ANDERSON: I'm sorry, that's his mom.

15 THE COURT: Okay. That explains everything.

16 MR. ANDERSON: She and dad have not been together for  
17 a very long time, since when this boy came into this  
18 courtroom. Now, he's a man. When he came in this  
19 courtroom as a young lad, his parents had already been  
20 apart for a while. Interestingly, his dad played  
21 professional football way back and they have started  
22 rekindling a relationship.

23 THE COURT: No offense to mom.

24 MR. ANDERSON: No offense to mom. Mom is just a good  
25 soul.

1           Judge, none of this paperwork -- and we couldn't get  
2 this from the clerk because all that stuff is sealed. We  
3 didn't represent the young man in the plea. There's no  
4 mention of sex offender registry here. My client and his  
5 mother don't remember ever hearing sex offender registry.  
6 You know, it was a probationary sentence, he went from  
7 Aiken to Generation Group Home, which we still use.  
8 Serena and I sent a kid there a couple of years ago. It's  
9 a good place. My client went and --

10           THE COURT: Successfully completed the program.

11           MR. ANDERSON: He did. And he's moved on with his  
12 life. And I've got, Judge, to hand up to you his resume  
13 -- just thought it'd be easy for you to look at. I've got  
14 -- I went ahead and sent him to Dr. McKee in Columbia, who  
15 specializes in sex offender stuff, and had him evaluated.  
16 And that was favorable. And then the boy flew in -- boy,  
17 he's 35 years old. My client flew in from Washington,  
18 D.C. last night and I had polygrapher, Tommy Platt,  
19 waiting on him and we polygraphed him as to whether or not  
20 he's had any reoffenses since he turned 18. And he passed  
21 the polygraph. We've got the favorable forensic  
22 evaluation.

23           MS. MCDANIEL: And, of course, Tommy Platt's the  
24 polygrapher for the sheriff's office, so he made sure I  
25 couldn't object to the polygrapher.

1 THE COURT: See, normally, we don't allow polygraphs  
2 for anything.

3 MR. ANDERSON: Well, the reason we did it, Judge, on  
4 these kinds of cases, there's no way of knowing for sure.

5 THE COURT: I know.

6 MR. ANDERSON: And so it always appeases the  
7 prosecutors and the judges if we, at least, do such.

8 THE COURT: Okay. Mr. Anderson, I presume that you  
9 or you had him supply you satisfactory information that he  
10 has not been arrested -- I mean, I read that it was his  
11 only conviction, but has not been arrested either here or  
12 in D.C. since he became of majority or 18?

13 MR. ANDERSON: I can --

14 THE COURT: Well, we can ask him. Because it says  
15 adjudication when he was 13, the only arrest and  
16 conviction in his entire life. Okay. Do you want the  
17 Court to hear from him briefly?

18 MR. ANDERSON: Sure. Yes, ma'am.

19 THE COURT: Ms. McDaniel, do you want to tell me  
20 anything?

21 MS. MCDANIEL: Your Honor, I haven't run him through  
22 the NCIC. I could have. Mr. Anderson didn't make that  
23 request of me. But he can testify, he's here and you can  
24 put him under oath.

25 Your Honor, what I need to say on the record is,

1 obviously, as we've already discussed, I wasn't the  
 2 assistant solicitor. I only have what's on an index card  
 3 because this was before the time of computers and  
 4 databases. I know that Mr. Reed was 12 years old during  
 5 the adjudication and disposition. The victim was three  
 6 years old and it was digital, not any other -- any more  
 7 than that.

8 I talked to my other assistant solicitors throughout  
 9 the state, because we had a training a couple of weeks  
 10 ago, about whether they've been dealing with motions to  
 11 remove and they haven't. They haven't experienced that.  
 12 This is my second one. Mr. Anderson tells me he's done  
 13 two before.

14 I can tell you that I know the majority, if not all  
 15 of the other assistant solicitors who prosecute in Family  
 16 Court are against lifetime registration for juveniles on  
 17 the sex offender. And had I been the one -- in the early  
 18 stages of my career, I, too, pled people to these and then  
 19 I learned of the repercussions, which I'm sure Mr. Reed is  
 20 experiencing, and hence from many, many years ago, we  
 21 changed our pleas to something to avoid that unless  
 22 something came to light that the State needed to seek it.

23 We did try to contact the victim when Investigator  
 24 Reiter was my investigator. She made contact with the  
 25 victim and her mother. They told us they needed to think

1 about it and they never got back to us. So Investigator  
2 Reiter made several attempts to reestablish contact and  
3 she avoided us a lot. So we never got an exact answer  
4 from her, so I suppose by a not answer, maybe she opposes  
5 it, but I cannot say that either. We don't know.

6 So I couldn't give Mr. Anderson a consent based on  
7 that. I wouldn't do that without a victim's consent,  
8 however, I'm not objecting to it. I'm just letting the  
9 Court use its discretion in making this decision. I guess  
10 that says it all.

11 THE COURT: Okay. Mr. Anderson, let's get him up  
12 here on the stand for just a few minutes.

13 MR. ANDERSON: Can we go off the record for just one  
14 second?

15 THE COURT: Yes, sir.

16 (WHEREUPON, an off the record discussion ensued.)

17 THE COURT: Sir, would you come up here and have a  
18 seat beside me, please.

19 BRANDON REED, after being duly sworn,  
20 testifies as follows:

21 DIRECT EXAMINATION

22 BY MR. ANDERSON:

23 Q Could you state your full name?

24 A Brandon Anthony Reed.

25 Q And you were convicted in this very courtroom when

1 you were -- ended up being 12?

2 A I don't even remember it's been that long, but if  
3 that's what you're telling me, I would assume so.

4 Q At the time, did you have any idea you were going to  
5 end up on the sex offender registry?

6 A No. I didn't even understand honestly what was going  
7 on. It was a lot going on around me.

8 Q Since -- after that, you spent time in Aurora?

9 A Yes.

10 Q You spent time at Inner Harbor in Florida?

11 A And in Douglasville, Georgia, correct.

12 Q And Generations Group Home in Greenville, South  
13 Carlina?

14 A That is correct, Simpsonville, South Carlina.

15 Q And all of this was counseling? You had some issues  
16 going on. You had some issues with your parents?

17 A Yes.

18 Q You had some sexual questionable issues?

19 A You could say that.

20 Q You had all kind of other issues that maybe young  
21 teens suffer from?

22 A Absolutely.

23 Q Did you engage in your counseling?

24 A Absolutely.

25 Q Did you benefit from your counseling?

1 A Absolutely.

2 Q After you got out of Generations, did you also go  
3 into about two years of counseling with Dr. Palini?

4 A That is correct.

5 Q And you were on medications?

6 A That is correct.

7 Q And you had -- every month, you had two sessions of  
8 counseling with him?

9 A If not more, that is correct.

10 Q And your mom was in on some of those and some of  
11 them, she wasn't?

12 A That's correct, yes.

13 Q Now, since your conviction, have you been convicted  
14 of any other crimes?

15 A No, nothing.

16 Q And you have been working in Virginia, Maryland,  
17 Washington, D.C.?

18 A That general area, yes.

19 Q And has this sex offender registry followed you  
20 there?

21 A Oh, yeah, definitely. I've had to move overnight  
22 because of law changes in Virginia. There was actually a  
23 statute in Virginia that says if you're required to  
24 register in another state, you're required to register  
25 there, also. But I met all the other criteria. That's

1 the last line in the statute. So it's affecting me in  
2 that way, in terms of getting jobs, finding housing. I  
3 could make the money, I could pass everything. And then  
4 we'd get to the end and they'd say no, because of your  
5 background, can't do it. And I even tried to be honest  
6 and write it at the bottom, you know, I was 11 years old.  
7 And it just follows you everywhere you go now.

8 Q Let's talk just a little bit about the incident. Do  
9 you take responsibility for the crime that you did commit?

10 A Without a doubt, absolutely.

11 Q Do you feel like you're suffering from issues where  
12 you are a menace to society?

13 A No, I'm not at all. I consider myself to be a very  
14 productive member of society.

15 Q Are you struggling with any sexual issues?

16 A No.

17 Q Have you had a normal -- well, define normal, but  
18 have you had a normal sex life?

19 A Absolutely. I've been forced to more than anything,  
20 but yes, absolutely.

21 Q Do you have a lady friend in your life?

22 A I do. I have a very close girlfriend in my life.

23 Q And does she know that you're on this registry?

24 A Yes, she does. I actually -- I had to tell her. I  
25 feel like when you love someone -- and these are things

1 that we practice during our group sessions. So when you  
2 love someone and you know you're going to be serious with  
3 someone, that's something you tell them. In addition to  
4 that, she's in the Navy and she also works for the  
5 Department of the Navy and she has a security clearance.  
6 So I know that if we get married, that's going to be  
7 something that definitely affects us.

8 Q Okay. Now, when you went to the evaluation with Dr.  
9 McKee in Columbia, were you honest and forthright with  
10 him?

11 A One hundred thousand percent, yes.

12 Q And then you took a polygraph last evening. Were you  
13 honest with the polygrapher?

14 A One hundred thousand percent, absolutely.

15 Q So are you asking today that you be removed from the  
16 sex offender registry?

17 A I am begging.

18 Q Do you believe that it serves any useful purpose for  
19 you to be on there?

20 A No, I don't.

21 MR. ANDERSON: Judge, that's all I have.

22 THE COURT: Any questions?

23 MS. MCDANIEL: No.

24 THE COURT: For the record, I will state that one of  
25 the paragraphs in Dr. McKee's letter says, In my opinion,

1 based on 35 years of research, evaluation and treatment of  
2 sex offenders and 11 years of service on South Carolina's  
3 Sexually Violent Predator Multidisciplinary Team,  
4 reviewing over 6,000 cases of sexually violent predator,  
5 eligible juvenile and adult inmate sex offenders, Mr. Reed  
6 is not a sexually violent predator as defined by South  
7 Carlina law.

8 Thank you, sir. You can go sit by your lawyer.

9 All right. I will allow an order to be done to  
10 remove his name from the sex offender registry.

11 Mr. Anderson, as soon as you get that to me, I will  
12 sign it.

13 I do understand, sir, and in the Family Court Judge's  
14 defense then, it wasn't me -- I won't say I was still in  
15 high school, but I wasn't, but it was automatic. When  
16 that kind of plea came in, it was automatic. And it has  
17 only been in the last probably 15 or so years that that  
18 kind of automatic registration has -- people have had  
19 thoughts about that, as to what 11-year-old boys do that  
20 ends up following them around.

21 Thank you.

22 \*\*\*\*\*END OF PROCEEDINGS\*\*\*\*\*  
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA        )  
COUNTY OF AIKEN                )

I, PENNY M. JOHNSON, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in Family Court for Aiken County, South Carolina, on the 7th day of March, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 6, 2017

Penny M. Johnson

Penny M. Johnson Court Reporter

My Commission Expires: 06/16/2018

anderson LLP  
trial attorneys and counselors at law

211 york street, ne  
aiken, south carolina 29801

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S.C. Court of Appeals  
Attn: Jenny Abbott Kitchings, Clerk  
P.O. Box 11629  
Columbia, South Carolina 29211

