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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

Appellate Case No.: Case No. 2019-001063
Trial Court Case No.: 2016-CP-40-06960

Dennis J. Powell, Jr.

Respondent,

v.

Mark Keel, Chief, State Law
Enforcement Division, and the
State of South Carolina

Appellants.

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SC Court of Appeals

RECORD ON APPEAL – VOLUME II

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case No.: 2016-CP-40-06960

Dennis J. Powell, Jr.,)
Plaintiff,)
v.)
Mark Keel, Chief,)
State Law Enforcement Division, and)
The State of South Carolina,)
Defendants.)

**DEFENDANTS' SECOND MOTION FOR
SUMMARY JUDGMENT,
MEMORANDUM IN SUPPORT OF
SUMMARY JUDGMENT, AND
DEFENDANTS' RESPONSE IN
OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE THAT the Defendant South Carolina Law Enforcement Division by and through Chief Mark Keel (hereinafter "SLED"), and the State of South Carolina, by and through its undersigned attorneys, hereby move this Honorable Court for summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure in this matter.¹ The grounds for this motion and arguments in support thereof, which also serve as Defendants' response in opposition to Plaintiff's motion for summary judgment, are as follows:

FACTUAL BACKGROUND

The Plaintiff was indicted for Criminal Solicitation of a Minor on December 1, 2008. The indictment reads:

That Dennis Powell, Jr., on or about November 12, 2007 to February 15, 2008, did willfully and knowingly commit the crime of criminal solicitation of a minor. To wit: Dennis Powell, Jr. a person eighteen years of age or older, did knowingly though the Internet contact and communicate with a person located within the County of Lexington, State of South Carolina, whom he reasonably believed to be a twelve year-old girl, for the purpose of or with the intent of persuading, inducing, enticing, or coercing this person to engage or participate in a sexual activity as defined in Section 16-15-375(5). This is in direct violation of Section 16-15-342 of the South Carolina Code of Laws (1976), as amended.

¹ Defendants file this second motion based on the new factual information and legal grounds not provided or argued in the previous motion.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A copy of this indictment is attached hereto and identified as "Attachment 1 (Indictment)". Thereafter, in April of 2009, the Plaintiff pled guilty to this indictment and admitted under oath that he did in fact criminally solicit a minor with the intent to engage in sexual activity in violation of S.C. Code Ann. § 16-15-342(A). The sentencing sheet for this plea is attached hereto and identified as "Attachment 2 (Sentencing Sheet)".

The factual basis for this plea is set forth in the plea transcript, the relevant excerpt of which is also attached hereto and identified as "Attachment 3 (Plea Transcript)". This transcript indicates that the Plaintiff, who was 22 years old, admitted to have numerous sexually explicit conversations with an individual that the Plaintiff believed to be a 12 or 13-year-old girl in an online Yahoo Chatroom. The clear and unequivocal intent of these communications was for the Plaintiff to persuade, induce, entice, and coerce this 12 or 13-year-old girl to engage and participate in sexual activities as defined by S.C. Code § 16-15-375. Copies of these illegal and illicit communications are attached hereto and identified as "Attachment 4 (Solicitation Chats)". The Plaintiff admitted that he wanted to "teach" this 12 or 13-year-old girl various sex acts and the Plaintiff also sent pictures of his penis to this 12 or 13-year-old girl. Notably, the Plaintiff admitted "I would be in trouble, not you", yet he did it anyway. See Attachment 4 (Solicitation Chats).

Ultimately, after having laid his intentional sexual "groundwork", the Plaintiff set up a meeting with this 12 or 13-year-old girl at a skating rink in Lexington County for the express purpose of engaging in sexual activity with her. After setting up this meeting, the Plaintiff drove from Forest Acres to Lexington to engage in sexual activity with this 12 or 13-year-old girl. However, the Plaintiff did not stop at the skating rink, but instead drove by prior to being arrested by law enforcement. Fortunately for the citizens of South Carolina, this "12 or 13-year-old girl"

was actually a law enforcement officer acting in an undercover capacity who apprehended the Plaintiff before he could victimize a 12 or 13-year-old minor child as he admittedly intended. *See* Attachment 3 (Plea Transcript); Attachment 4 (Solicitation Chats). However, the fact that this was a "sting" operation does not in any way make this a "victimless" crime, as the Plaintiff's admitted intent was to victimize a 12 or 13-year-old girl by engaging in sexual activity. *See* Attachment 5 (Victims' Advocate Affidavit); Attachment 1 (Indictment); Attachment 2 (Sentencing Sheet); Attachment 3 (Plea Transcript).

Furthermore, subsequent to his conviction for Criminal Solicitation of a Minor, the Plaintiff was required to register on the South Carolina Sex Offender Registry Act (SORA) registry and did in fact so register with the Richland County Sheriff's Department on or about February 11, 2010. *See* Attachment 6 (RCSO Affidavit). The Plaintiff has continuously registered since this time. *See Id.* However, it is noteworthy that the Plaintiff is not now and has never been subject to residency restrictions, work restrictions, or GPS monitoring based upon his lawful status as a sex offender. *See Id.*; Attachment 7 (Temple Affidavit). Further, the Plaintiff is not subject to any other restrictions, including, but not limited to, internet usage, community involvement, or any prohibitions related to where he may go or with whom he may lawfully interact. *See* Attachment 6 (RCSO Affidavit); Attachment 7 (Temple Affidavit). Rather, the Plaintiff is subject to the same regulatory and administrative requirements and is treated like all other similarly situated registrants in South Carolina. *See* Attachment 7 (Temple Affidavit).

In addition, the Plaintiff did not appeal his 2009 conviction or sentence. The Plaintiff did not apply for post-conviction relief challenging the sufficiency of the legal representation for his criminal matter or any other matter that could be challenged through post-conviction relief. The Plaintiff has not sought a pardon for his conviction. The Plaintiff has not filed a petition for a writ

of habeas corpus or a motion for new trial pursuant to Rule 29(b), South Carolina Rules of Criminal Procedure. Accordingly, the Plaintiff's conviction has not been reversed, overturned or vacated on appeal. As such, the Plaintiff does not meet any of the statutory criteria for removal set forth in South Carolina law.

HISTORICAL BACKGROUND OF SEX OFFENDER REGISTRATION

As noted by the South Carolina Supreme Court,

The movement to enact sex offender registration statutes arose after Megan Kanka, a seven-year old child, was raped and murdered in New Jersey by a convicted sex offender who had moved in across the street from her family. The killer enticed the girl to come over to his house in order to see his new puppy. The New Jersey legislature responded to this highly publicized event by declaring a legislative emergency to immediately debate and enact a sexual crimes bill.

On October 31, 1994, Governor Whitman signed the bill, which became known as Megan's Law. N.J. Stat. Ann. 2C:7-1 *et seq.* The law requires sexual criminals to register with local law enforcement.

The United States Congress also reacted to the national outrage over sexual crimes by passing the Jacob Wetterling Crimes Against Children and Sexually Violent Predator Act ("Jacob Wetterling Act"), which President Clinton signed on September 13, 1994. Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program, 42 U.S.C.A. § 14071 (West 1994). The Jacob Wetterling Act gives states incentives to enact laws that protect the public from sexual criminals by conditioning federal funding under the Public Health and Welfare Code to state enactment of a sex crimes law. 42 U.S.C.A. § 14071(g)(1) and (g)(2). The Jacob Wetterling Act also creates a national sexual offender database, in which the states are required to participate. 42 U.S.C.A. § 14071(b)(2)(B).

Hendrix v. Taylor, 353 S.C. 542, 547-48, 579 S.E.2d 320, 322-23 (2003).

Thereafter, in 1996, Congress passed its own "Megan's Law" mandating the public disclosure of information about certain sex offenders and empowering the individual states to determine the appropriate confines of such disclosure. *See* "Megan's Law", 42 U.S.C. 14071(d).

In 2006, Congress passed the "Adam Walsh Child Protection and Safety Act of 2006", which included the Sex Offender Registration and Notification Act (SORNA). 42 U.S.C. §

16901 *et seq.* This federal law created a new baseline of sex offender registration and notification standards and directed the Department of Justice to establish the Dru Sjodin National Sex Offender Public Website. *Id.* As such, the U.S. Congress has mandated that states publish sex offender registry information online.

HISTORICAL BACKGROUND OF PUBLIC REGISTRATION IN SOUTH CAROLINA

The South Carolina Sex Offender Registry (hereinafter "Registry") came into existence upon the passage of 1994 Act No. 487, Part II, § 112A following the federal trend set forth above. The Registry was created to be operated "under the direction of the chief of the State Law Enforcement Division (SLED)". *Id.* In that regard, the South Carolina Legislature empowered SLED to "develop and operate" the Registry and to collect, maintain, and make Registry information available. *Id.* Notably, the initial iteration of the Registry was **not** open to public inspection. *Id.* ("Information collected for the offender registry shall not be open to inspection by the public. The information shall be made available only to law enforcement, investigative agencies, and those authorized by the court.") However, the very first legislative change to the Registry, which came upon the passage of 1996 Act 444, changed this and specifically made Registry information open and available to the public. Specifically, S.C. Code § 23-3-490 was amended to read:

Section 23-3-490. (A) Information collected for the offender registry is **open to public inspection**, upon request to the county sheriff. A sheriff must release information regarding a specific person who is required to register under this article to a member of the public if the request is made in writing, stating the name of the person requesting the information, and the name or address of the person about whom the information is sought. The information must be disclosed only to the person making the request. The sheriff must provide the person making the request with the full name of the offender, any aliases, the date of birth, a current home address, the offense for which the offender was required to register pursuant to Section 23-3-430, and the date, city, and state of conviction. A photocopy of a current photograph must also be provided. The provisions of this article do not authorize SLED to release information to the public unless a request is made in

writing stating the name of the person making the request and the name of the person about whom information is sought. SLED is only authorized to release to the public the name of the county in which the offender is registered. Otherwise, SLED is not authorized to release any information contained in the registry to anyone other than law enforcement agencies, investigative agencies, and those agencies authorized by the court.

1996 South Carolina Laws Act 444 (S.B. 1286) (emphasis added).

Thereafter, in 1998, the South Carolina Legislature again amended the statute to expand the information that SLED was authorized to disseminate. Specifically, S.C. Code § 23-3-490 was expanded to provide that:

(B) A person may request on a form prescribed by SLED a list of registered sex offenders residing in a city, county, or zip code zone or a list of all registered sex offenders within the State from SLED. A person may request information regarding a specific person who is required to register under this article from SLED if the person requesting the information provides the name or address of the person about whom the information is sought. **SLED shall provide the person making the request with the full names of the requested registered sex offenders, any aliases, any other identifying physical characteristics, each offender's date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23-3-430, and the date, city, and state of conviction....**

1998 South Carolina Laws Act 384 (H.B. 4805) (emphasis added).

In addition, in 1998, as the internet was increasing in nationwide popularity and use, the South Carolina Legislature specifically authorized SLED to publish Registry information on the internet. Specifically, S.C. Code Ann. § 23-3-490(E) was added, which states, **"For purposes of this section, use of computerized or electronic transmission of data or other electronic or similar means is permitted."** *Id.* (emphasis added). As such, the South Carolina Legislature specifically authorized SLED to publish Registry information online through electronic means in 1998. To that end, SLED first published Registry information on the internet on or about **November 22, 1999** and has published said Registry information on the internet continuously since. *See Attachment 7 (Temple Affidavit).*

Thereafter, the South Carolina Legislature acknowledged that the media could access and publish Registry information in newspapers. *See* 1999 South Carolina Laws Act 110 (H.B. 3075). Moreover, the current version of S.C. Code Ann. § 23-3-490(C) states “[n]othing in subsection (A) prohibits a sheriff from disseminating information contained in subsection (A) regarding persons who are required to register under this article if the sheriff or another law enforcement officer has reason to believe the release of this information will deter criminal activity or enhance public safety.”

Furthermore, as recognized by the Fourth Circuit Court of Appeals in the *United States v. Under Seal* case, the federal Sex Offender Registration and Notification Act (SORNA) also

requires that a sex offender registry include the *name*, address, physical description, criminal history and status of parole, probation, or supervised release, *current photograph*, and other identifying information. 42 U.S.C. § 16914. SORNA further requires that “each jurisdiction shall make available on the Internet, in a manner that is readily accessible to all jurisdictions and to the public, all information about each sex offender in the registry.” 42 U.S.C. § 16918(a).

United States v. Under Seal, 709 F.3d 257, 262 (4th Cir. 2013) (emphasis in original). As such, in order to comply with SORNA, South Carolina law enforcement entities are required to make certain information “available on the Internet” and available for public access.

Finally, throughout the history of the Registry, SLED has been empowered to determine the form of public requests for Registry information and the appropriate form for law enforcement to provide responsive information. *See* S.C. Code Ann. §§ 23-3-410, 490. To that end, SLED has determined that online publication through internet websites available on SLED’s website or the individual Sheriff’s Department websites is the appropriate form of both requests for and dissemination of Registry information, and has utilized this medium for dissemination since November of 1999. *See* Attachment 7 (Temple Affidavit). Further, SLED in exercising its statutory discretion has determined that the current level of security, which notifies requesters of

the criminal penalties for improper use of Registry information and which seeks to prohibit non-humans from accessing the Registry, is sufficient. *See* Attachment 7 (Temple Affidavit) *see also* S.C. Code Ann. §§ 23-3-400 *et. seq.* This level of security is more robust than that necessary to access SLED criminal records (SLED CATCH) or the general public index. *See* Attachment 7 (Temple Affidavit).

ARGUMENTS

THE PLAINTIFF'S ATTEMPT TO CIRCUMVENT BINDING PRECEDENT IN THIS ACTION FAILS BOTH FACTULLY AND LEGALLY.

The Plaintiff's contentions in this matter rest on the flawed premise that the South Carolina Legislature did not intend for SORA Registry information to be published on the internet or accessible online. Similarly, the Plaintiff argues that because SLED is publishing this information online that this somehow makes SORA registration punitive and authorizes this Court to disregard the overwhelming amount of binding precedent to the contrary in the State of South Carolina. In fact, while the Plaintiff conceded at a previous hearing in this matter "[w]e are not going to ask you to disregard the law of the State of South Carolina as decided by our Supreme Court", the Plaintiff went on to assert:

Judge, our argument today is this: Two things have transformed this law into an unconstitutional and punitive violation of both the equal protection clause and Eighth Amendment. The first is, social media and the internet. When this law was written, nobody in this courtroom could make a straight-face argument that the internet and social media and the way we receive information and the way we consolidate and disseminate information is the same today as it was then. Courts around the country have begun to recognize that.

See Attachment 8 (December 6, 2017 Hearing Transcript, P. 34 Ln. 10-12; P. 42 Ln. 2-12).

The Plaintiff is absolutely correct that when the law was written in 1994, there was no public registration and certainly no authorization to publish Registry information on the internet. *See* 1994 Act No. 487, Part II, § 112A. However, unfortunately for the Plaintiff and fatal to his

arguments, it is no longer 1994 and the statutes in question have been amended multiple times since then with each authorizing and mandating **more public access** to Registry information in an increasing variety of mediums, **including specifically authorizing publication on the internet.**

In 1996, the Legislature authorized public inspection of the Registry for the first time. *See* 1996 South Carolina Laws Act 444 (S.B. 1286). In 1998, the Legislature authorized and mandated that SLED provide “the full names of the requested registered sex offenders, any aliases, any other identifying physical characteristics, each offender’s date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23-3-430, and the date, city, and state of conviction...” to requestors. *See* 1998 South Carolina Laws Act 384 (H.B. 4805). In that same bill, while mandating that SLED provide Registry information to the public, the Legislature added Paragraph E to S.C. Code Ann. § 23-3-490, which specifically provided for the “**use of computerized or electronic transmission of data or other electronic or similar means**” to disseminate Registry information. *Id.* (emphasis added). In addition, in 1999, the Legislature mandated that South Carolina sheriffs “provide to a newspaper with general circulation within the county a listing of the registry **for publication**”. *See* 1999 South Carolina Laws Act 110 (H.B. 3075) (emphasis added). Accordingly, when viewing the legislative history related to the publication of the SORA Registry as set forth above, it is inarguable that the South Carolina Legislature did in fact intend and authorize public dissemination of SORA Registry information on the internet.

Moreover, throughout the entire Legislative history of the Registry, SLED has been empowered to determine the appropriate format for public requests and the appropriate format for law enforcement to disseminate the responsive Registry information. *See* S.C. Code Ann. §§

23-3-410, 490. To that end, SLED has conclusively determined that online publication through internet websites is the appropriate form of both requesting and disseminating Registry information, and SLED has utilized this online publication format for requests and dissemination of Registry information since November of 1999. *See* Attachment 7 (Temple Affidavit).

It is apparent that the Plaintiff is attempting to use a factually and legally flawed argument challenging SLED's online publication of Registry information as a backdoor to argue that the Registry is in fact punitive and somehow violates equal protection and due process in an effort to manufacture an avenue by which the courts can simply disregard the years and years of binding authority and precedent in South Carolina law on these issues. However, because SLED published the Registry online in January of 1999, this argument fails both factually and as a matter of law.

In fact, every single South Carolina appellate decision upholding the constitutionality of SORA, including all of the decisions finding that SORA is a civil and non-punitive statute, also found that SORA does not violate the equal protection or due process clauses of the constitution, and those decisions finding that SORA is not punishment (much less cruel and unusual punishment) were issued and decided after SLED's online publication of Registry information on the internet. *See State v. Walls*, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002); *Hendrix v. Taylor*, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003) (finding that "the length of time one must be listed on the sex offender registry is non-punitive, and it cannot constitute a deprivation of a constitutionally protected liberty interest."); *In re Ronnie A.*, 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003) (finding that "sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated."); *Williams v. State*, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008) (holding that registration as a sex offender is not a punishment, but rather is a regulatory requirement imposed to promote public safety); *In the Interest of Justin B., a Juvenile*

under the Age of Seventeen, 419 S.C. 575, 799 S.E.2d 675 (2017) *cert. denied sub nom. J.D.B. v. South Carolina*, No. 17-536, 2017 WL 4539709 (U.S.S.C. Nov. 27, 2017) (reaffirming the constitutionality of SORA, even as related to online publication of juvenile Registry information, and reaffirming unequivocally that SORA is not punishment).

It is inarguable and incomprehensible to believe that these decisions were issued and decided without the Court's knowledge and appreciation of the publication of Registry information on the internet. Tellingly, the very decisions themselves belie this contention. *Id.* In 2003, the Supreme Court specifically acknowledged this fact in *Hendrix v. Taylor* noting,

when the South Carolina Law Enforcement Division ("SLED") registers a sex criminal due to his conviction of a sexual offense in another state, the agency must correctly state the offense the criminal committed in that jurisdiction. **Accordingly, under the "Offense" heading on the registry**, SLED should provide (1) the state where the offense was committed; (2) the citation of that state's statute that was violated; (3) the name of the crime committed; and (4) the date of conviction. **For example, in this case, Appellant's offense would appear under the "Offense" heading as follows....**

Hendrix v. Taylor, 353 S.C. 542, 551-52, 579 S.E.2d 320, 325 (2003) (emphasis added). It is axiomatic that the "Offense" heading referenced therein is the heading on the publically accessible Registry website and cannot be argued otherwise. *See* Attachment 7 (Temple Affidavit).

Moreover, in 2017, the South Carolina Supreme Court again acknowledged this premise in the context of juvenile registration on the publically accessible internet in the case of *In the Interest of Justin B.* noting,

Justin B.'s age and the resulting **public registration** does not change our constitutional analysis. The Supreme Court held that an adult does not have a constitutionally protected liberty interest in his reputation. *See Paul v. Davis*, 424 U.S. 693, 712, 96 S.Ct. 1155, 1166, 47 L.Ed.2d 405, 420 (1976) (stating an "interest in reputation ... is neither 'liberty' nor 'property' guaranteed against state deprivation without due process of law"). A delinquent juvenile's reputation may be in greater need of protection than the reputation of an adult convicted of a felony sex crime, but the juvenile's interest in that reputation is still neither liberty nor property. The responsibility of balancing the need to protect a juvenile's reputation

against the need to "to promote the state's fundamental right to provide for the ... safety of its citizens," § 23-3-400, falls to the Legislature, not the courts, S.C. Const. art. I, § 8.

In Interest of Justin B., 419 S.C. 575, 586, 799 S.E.2d 675, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017) (emphasis added). As such, it is factual and legal error to argue that the internet changes any of the existing precedent in this State, which remains absolutely binding. Daniels v. City of Goose Creek, 314 S.C. 494, 501, 431 S.E.2d 256, 260 (Ct. App. 1993); (recognizing decisions of the Supreme Court bind as precedent); S.C. Const. Art. V, § 9; *see also* W. E. B. DuBois Clubs of Am. v. Clark, 389 U.S. 309, 312, 88 S. Ct. 450, 452, 19 L. Ed. 2d 546 (1967) (acknowledging that courts do not decide constitutional questions in a vacuum).

Furthermore, additional binding authority regarding the constitutionality of online publication is found in the landmark United States Supreme Court's decision in Smith v. Doe, which was also rendered after SLED, and other states, published Registry information online. In that decision, the U.S. Supreme Court specifically considered internet publication of sex offender information, and still unequivocally ruled that online public registration is non-punitive. *See* Smith v. Doe, 538 U.S. 84, 99, 123 S. Ct. 1140, 1150-51 (2003) (this decision was acknowledged by the South Carolina Supreme Court in In re Justin B., 405 S.C. 391, 747 S.E.2d 774 (2013) and in State v. Dykes, 403 S.C. 499, 744 S.E.2d 505 (2013)). The U.S. Supreme Court noted specifically:

The fact that Alaska posts the information on the Internet does not alter our conclusion. It must be acknowledged that notice of a criminal conviction subjects the offender to public shame, the humiliation increasing in proportion to the extent of the publicity. And the geographic reach of the Internet is greater than anything which could have been designed in colonial times. These facts do not render Internet notification punitive. **The purpose and the principal effect of notification are to inform the public for its own safety, not to humiliate the offender. Widespread public access is necessary for the efficacy of the scheme, and the attendant humiliation is but a collateral consequence of a valid regulation.**

The State's Web site does not provide the public with means to shame the offender by, say, posting comments underneath his record. An individual seeking the information must take the initial step of going to the Department of Public Safety's Web site, proceed to the sex offender registry, and then look up the desired information. The process is more analogous to a visit to an official archive of criminal records than it is to a scheme forcing an offender to appear in public with some visible badge of past criminality. The Internet makes the document search more efficient, cost effective, and convenient for Alaska's citizenry.

Smith v. Doe, 538 U.S. 84, 99, 123 S. Ct. 1140, 1150-51 (2003). South Carolina's SORA operates virtually identically to the website analyzed by the U.S. Supreme Court in *Smith v. Doe*. See Attachment 7 (Temple Affidavit). Moreover, the Defendants in this case do not utilize social media to disseminate Registry information. See *Id.*

Accordingly, the Plaintiff's assertion that online publication is a new argument that somehow changes the analysis in this case and authorizes this Court to disregard binding precedent must be rejected. See *Id.* As such, the plethora of binding precedent, discussed more fully below, remains the binding precedent that must be followed in this case. Daniels v. City of Goose Creek, 314 S.C. 494, 501, 431 S.E.2d 256, 260 (Ct. App. 1993) (recognizing the decisions of the Supreme Court bind as precedent); S.C. Const. Art. V, § 9. Therefore, the Plaintiff's claims in this matter fail as a matter of law and must be rejected.

CONSTITUTIONAL CHALLENGES IN THIS ACTION

As an overarching tenet to the constitutional arguments in this case, the Defendants would assert South Carolina law mandates that "all statutes are presumed constitutional and, if possible, will be construed to render them valid." Curtis v. State, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001); Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999); Davis v. County of Greenville, 322 S.C. 73, 470 S.E.2d 94 (1996). Further, a "legislative act will not be declared unconstitutional unless its repugnance to the constitution is

clear and beyond a reasonable doubt.” Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999) (citing Westvaco Corp. v. South Carolina Dep’t of Revenue, 321 S.C. 59, 467 S.E.2d 739 (1995)). “A legislative enactment will be declared unconstitutional only when its invalidity appears so clearly as to leave no room for reasonable doubt that it violates a provision of the constitution.” Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999). As such, all of the statutes in question must be presumed as constitutional in this action because there is and can be no showing of any legitimately cognizable repugnance to the constitution, much less one that is beyond a reasonable doubt.

Further, the binding precedent in this state, which is set forth below, conclusively resolves this entire action as a matter of law. The most compelling recitation of this precedent was provided by the South Carolina Supreme Court in *In Interest of Justin B.* from 2017 in which the court noted

As the family court indicated, we have already addressed many of the issues Justin B. raises in his challenge to the imposition of sex offender registration and electronic monitoring requirements. In *State v. Walls*, 348 S.C. 26, 558 S.E.2d 524 (2002), we considered whether the sex offender registry violated the *ex post facto* clauses of the state and federal constitutions. 348 S.C. at 29, 558 S.E.2d at 525. We stated, “For the *ex post facto* clause to be applicable, the statute or the provision in question must be criminal or penal in purpose and nature.” 348 S.C. at 30, 558 S.E.2d at 526. **We then held the sex offender registry did not violate the *ex post facto* clause because “it is clear the General Assembly did not intend to punish sex offenders, but instead intended to protect the public from those sex offenders who may re-offend and to aid law enforcement in solving sex crimes.”** 348 S.C. at 31, 558 S.E.2d at 526.

In *Hendrix v. Taylor*, 353 S.C. 542, 579 S.E.2d 320 (2003), we considered whether requiring a convicted Colorado sex offender to register in South Carolina violated the equal protection and due process clauses of the state and federal constitutions. 353 S.C. at 547, 579 S.E.2d at 322. As to the equal protection challenge, we found classifying an out-of-state sex offender as a sex offender in South Carolina “did not affect a fundamental right,” and therefore we applied the “rational relationship” test. 353 S.C. at 550, 579 S.E.2d at 324. Under that test, a statutory classification will be constitutional if the “classification bears a reasonable relation to the legislative purpose,” “the

members of the class are treated alike under similar circumstances and conditions,” and “the classification rests on some reasonable basis.” *Id.* (quoting *Curtis v. State*, 345 S.C. 557, 574, 549 S.E.2d 591, 600 (2001)). We held requiring an out of state offender to register in South Carolina was “reasonably related to the legitimate state purpose of protecting the public and aiding law enforcement in limiting the risk that sex offenders pose to communities.” *Id.* As to the due process challenge, we followed our holding in *Walls* that the sex offender registry is non-punitive and did not implicate a liberty interest, and therefore held there was no due process violation. 353 S.C. at 552, 579 S.E.2d at 325 (citing *Walls*, 348 S.C. at 31, 558 S.E.2d at 526).

Later that year, we decided *In re Ronnie A.*, 355 S.C. 407, 585 S.E.2d 311 (2003), in which an eleven-year-old challenged the mandatory lifetime registration requirement after he was found to have committed criminal sexual conduct with a minor. We followed *Hendrix*, and held “sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated.” 355 S.C. at 409, 585 S.E.2d at 312 (citing *Hendrix*, 353 S.C. at 552, 579 S.E.2d at 325).

We reiterated our holding in *Walls* that the legislative purpose for the sex offender registry “is to protect the public from those offenders who may re-offend.” *Id.* (citing *Walls*, 348 S.C. at 31, 558 S.E.2d at 526). We then concluded, “The registration of offenders, including juveniles who have proved themselves capable of certain sex offenses, is rationally related to achieving this legitimate objective. Appellant has offered no valid basis upon which to distinguish juvenile sex offenders for purposes of due process.” 355 S.C. at 409-10, 585 S.E.2d at 312.

Finally, we considered an Eighth Amendment challenge to the section 23-3-540 requirement that juveniles submit to electronic monitoring for life in *In re Justin B.*, 405 S.C. 391, 747 S.E.2d 774 (2013). We held “the General Assembly intended section 23-3-540 as a civil scheme for the protection of the public.” 405 S.C. at 405, 747 S.E.2d at 781. We concluded, “Section 23-3-540’s electronic monitoring scheme bears a clear and rational connection to a non-punitive purpose,” and stated “the continuous monitoring of these offenders supports the General Assembly’s valid purpose of aiding law enforcement in the protection of the community.” 405 S.C. at 407, 747 S.E.2d at 782-83. We held, however, “sex offenders ... are entitled to ‘avail themselves of the section 23-3-540(H) judicial review process.’ ” 405 S.C. at 408, 747 S.E.2d at 783 (quoting *State v. Dykes*, 403 S.C. 499, 510, 744 S.E.2d 505, 511 (2013))....

Justin B.’s age and the resulting public registration does not change our constitutional analysis. The Supreme Court held that an adult does not have a constitutionally protected liberty interest in his reputation. *See Paul v. Davis*, 424 U.S. 693, 712, 96 S.Ct. 1155, 1166, 47 L.Ed.2d 405, 420 (1976) (stating an

"interest in reputation ... is neither 'liberty' nor 'property' guaranteed against state deprivation without due process of law"). A delinquent juvenile's reputation may be in greater need of protection than the reputation of an adult convicted of a felony sex crime, but the juvenile's interest in that reputation is still neither liberty nor property. The responsibility of balancing the need to protect a juvenile's reputation against the need to "to promote the state's fundamental right to provide for the ... safety of its citizens," § 23-3-400, falls to the Legislature, not the courts, S.C. Const. art. I, § 8.

V. Conclusion

The requirement that adults and juveniles who commit criminal sexual conduct must register as a sex offender and wear an electronic monitor is not a punitive measure, and the requirement bears a rational relationship to the Legislature's purpose in the Sex Offender Registry Act to protect our citizens—including children—from repeat sex offenders. The requirement, therefore, is not unconstitutional. If the requirement that juvenile sex offenders must register and must wear an electronic monitor is in need of change, that decision is to be made by the Legislature—not the courts. The decision of the family court to follow the mandatory, statutory requirement to impose lifetime sex offender registration and electronic monitoring on Justin B. is **AFFIRMED**.

In Interest of Justin B., 419 S.C. 575, 580–82, 586-87, 799 S.E.2d 675, 677–78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017) (internal citations omitted) (emphasis added). This decision is binding precedent that ends any constitutional argument in this matter as a matter of law. *See Daniels v. City of Goose Creek*, 314 S.C. 494, 501, 431 S.E.2d 256, 260 (Ct. App. 1993); (decisions of the Supreme Court bind as precedent); S.C. Const. Art. V, § 9. Nevertheless, the Defendants would also assert the following:

I. Equal Protection

"The initial inquiry in [this as with] any equal protection analysis is whether the plaintiff made 'a showing that similarly situated persons received disparate treatment.'" *State v. Walker*, 422 S.C. 89, 92, 810 S.E.2d 38, 40 (2018). The undisputed facts of this case are clear, unequivocal, and incontrovertible; the Plaintiff is in fact treated the SAME as all other similarly situation South Carolina registrants. *See* Attachment 6 (RCSO Affidavit);

Attachment 7 (Temple Affidavit). The Plaintiff does not even endeavor to claim otherwise and cannot. Rather, the Plaintiff claims that because other states treat their sex offenders differently that the Plaintiff **SHOULD** be treated differently than all other similarly situated South Carolina registrants. This is a perversion of equal protection and cannot form the basis of a legitimate claim in this matter.

The United States Supreme Court has long recognized that “[e]very state is entitled to enforce in its own courts its own statutes lawfully enacted....” Williams v. State of North Carolina, 317 U.S. 287, 295, 63 S.Ct. 2017, 212 (1942). In Sun Oil Co. v. Wortman, the United States Supreme Court acknowledged that a state cannot be compelled by the Full Faith and Credit Clause to substitute the statute of another state when “dealing with a subject matter concerning which it is competent to legislate.” 486 U.S. 717, 722 (1988) (quoting Pacific Employers Ins. Co. v. Industrial Accident Comm’n, 306 U.S. 493, 501 (1939)). In addition, in Alaska Packers Association v. Industrial Accident Commission, the United State Supreme Court recognized “that there are some limitations upon the extent to which a state will be required by the full faith and credit clause to enforce even the judgment of another state, in contravention of its own statutes or policy.” 294 U.S. 532, 546-47 (1935). Moreover, the Court went on to state that the sovereignty of states to enforce their own laws is even more pressing because “a rigid and literal enforcement of the full faith and credit clause, without regard to the statute of the forum, would lead to the absurd result that, wherever the conflict arises, the statute of each state must be enforced in the courts of the other, but cannot be in its own.” *Id.* at 547. As such, the Plaintiff’s attempts to violate South Carolina sovereignty by comparing his treatment to that of other states fails as a matter of law.

In addition, the binding precedent of this State indicates that the Plaintiff is not part of a suspect class, nor does his placement on the sex offender registry affect a fundamental right. *See Hendrix v. Taylor*, 353 S.C. 542, 549-50, 579 S.E.2d 320, 324 (2003) (citing *Cutshall v. Sundquist*, 193 F.3d 466, 483 (6th Cir. 1999)). The Plaintiff does not even allege otherwise. Therefore, the “rational relationship” test should be applied to determine whether the sex offender registry laws violate the Plaintiff’s right to equal protection. *Hendrix v. Taylor*, 353 S.C. 542, 550, 579 S.E.2d 320, 324 (2003). Under this test, the Plaintiff’s classification as a sex offender in South Carolina is justified and does not violate equal protection if “(1) the classification bears a reasonable relation to the legislative purpose sought to be effected; (2) the members of the class are treated alike under similar circumstances and conditions; and (3) the classification rests on some reasonable basis.” *Id.* (quoting *Curtis v. State*, 345 S.C. 557, 574, 549 S.E.2d 591, 599, 600 (2001)).

The South Carolina Supreme Court previously ruled in mandatory binding precedent that the SORA Registry “complies with the first prong of the test, as the legislative purpose is clearly defined” in the text of the law. *Hendrix v. Taylor*, 353 S.C. 542, 550, 579 S.E.2d 320, 324 (2003) (citing S.C. Code Ann. § 23-3-400). Classifying an individual as a sex offender is “reasonably related to the legitimate state purpose of protecting the public and aiding law enforcement in limiting the risk that sex offenders pose to communities.” *Id.*; *see also In re Ronnie A.*, 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003). Registration as a sex offender is not a punishment, but rather a regulatory requirement imposed to promote public safety. *Williams v. State*, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008); *see also State v. Walls*, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002). As such, the Plaintiff unequivocally fails on the first prong.

In addition, all members of the Plaintiff’s class, *i.e.* those persons convicted of Criminal Solicitation of a Minor, are treated identically. *See* Attachment 7 (Temple Affidavit). And, all

members of the class "are subject to uniform administrative and legal procedures." Hendrix v. Taylor, 353 S.C. 542, 550, 551, 579 S.E.2d 320, 324 (2003) *see also* Attachment 7 (Temple Affidavit). It is indisputable that the Plaintiff is in fact treated identically to all similarly situated South Carolina registrants, and the Plaintiff does not even allege otherwise. As such, the Plaintiff unequivocally fails on the second prong.

And, as to the third and final component of the test, the South Carolina Supreme Court has determined in binding precedent that classification of the Plaintiff as a sex offender "is reasonable because the purpose of the law is to protect the public welfare and to assist law enforcement in accomplishing that goal." Hendrix v. Taylor, 353 S.C. 542, 551, 579 S.E.2d 320, 324 (2003). Further, the Registry accomplishes this goal. *See* S.C. Code Ann. § 23-3-400; Attachment 7 (Temple Affidavit); Attachment 5 (Victims' Advocate Affidavit).

In sum, the South Carolina Legislature has determined unequivocally that the Registry is the appropriate mechanism by which to provide for the public health, welfare, and safety of South Carolina citizens; that the Registry provides law enforcement with tools needed to investigate; and that sex offenders as a class pose a risk of re-offending. *See* S.C. Code Ann. § 23-3-400 *et seq.* And, according to the United States Supreme Court, the Legislature has the authority to do this:

Alaska could conclude that a conviction for a sex offense provides evidence of substantial risk of recidivism. The legislature's findings are consistent with grave concerns over the high rate of recidivism among convicted sex offenders and their dangerousness **as a class**.

Smith v. Doe, 538 U.S. 84, 103, 123 S.Ct. 1140, 1153 (2003) (emphasis added) (rejecting an argument that the Alaska registry law was excessive because it applies to all convicted sex offenders without regard to their future dangerousness). Accordingly, similar to Alaska, the South Carolina Legislature has enacted a Registry that protects all South Carolinians and aids law enforcement. As such, the Plaintiff unequivocally fails the third prong.

Further, any attempt to redefine existing law to include a distinction between “low-risk sex offenders” and “diagnosed sexual predators” must fail as a matter of law. *See* S.C. Code Ann. § 23-3-400 (stating the purpose of the Registry as applicable to all offenders, which has been recited countless times by South Carolina appellate courts). The binding precedent on point and the South Carolina Constitution prohibits the Plaintiff or any Court from re-writing the existing statutes to include categories of offenders that simply do not exist in the law. *See Key Corporate Capital, Inc. v. County of Beaufort*, 373 S.C. 55, 59, 644 S.E.2d 675 (2007) (indicating that it is beyond a Court’s power to change a statute or second guess the wisdom or folly of the Legislature); S.C. Const. art. I, § 8 (mandating separation of powers between the Legislature and the Courts). Put simply, it is a matter of legislative prerogative to have one single class of offenders who are treated the same, and regardless of Plaintiff’s or any Court’s opinion on what the Legislature “should” do, the law mandates adherence to the clear and unequivocal Legislative prerogative. *Id.* As such, the Plaintiff’s equal protection claim fails as a matter of law.

II: Due Process

“The substantive due process guarantee ensures that legislation which deprives a person of a life, liberty, or property right [has], at a minimum, a rational basis, and not be arbitrary or overly vague.” *In re Treatment and Care of Luckabaugh*, 351 S.C. 122, 139-40, 568 S.E.2d 338, 346 (2002). As discussed above, the binding precedent in this state has conclusively rejected this claim. The most compelling recitation of the argument on this specific precedent was provided by the South Carolina Supreme Court in *In Interest of Justin B.* from 2017 in which the court noted

As to the due process challenge [in *Hendrix*], we followed our holding in *Walls* that the sex offender registry is non-punitive and did not implicate a liberty interest, and therefore held there was no due process violation. 353 S.C. at 552, 579 S.E.2d at 325 (citing *Walls*, 348 S.C. at 31, 558 S.E.2d at 526).

Later that year, we decided *In re Ronnie A.*, 355 S.C. 407, 585 S.E.2d 311 (2003), in which an eleven-year-old challenged the mandatory lifetime registration requirement after he was found to have committed criminal sexual conduct with a minor. We followed *Hendrix*, and held “sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated.” 355 S.C. at 409, 585 S.E.2d at 312 (citing *Hendrix*, 353 S.C. at 552, 579 S.E.2d at 325).

We reiterated our holding in *Walls* that the legislative purpose for the sex offender registry “is to protect the public from those offenders who may re-offend.” *Id.* (citing *Walls*, 348 S.C. at 31, 558 S.E.2d at 526). We then concluded, “The registration of offenders, including juveniles who have proved themselves capable of certain sex offenses, is rationally related to achieving this legitimate objective. Appellant has offered no valid basis upon which to distinguish juvenile sex offenders for purposes of due process.” 355 S.C. at 409-10, 585 S.E.2d at 312.

Justin B.’s age and the resulting public registration does not change our constitutional analysis. The Supreme Court held that an adult does not have a constitutionally protected liberty interest in his reputation. *See Paul v. Davis*, 424 U.S. 693, 712, 96 S.Ct. 1155, 1166, 47 L.Ed.2d 405, 420 (1976) (stating an “interest in reputation ... is neither ‘liberty’ nor ‘property’ guaranteed against state deprivation without due process of law”). A delinquent juvenile’s reputation may be in greater need of protection than the reputation of an adult convicted of a felony sex crime, but the juvenile’s interest in that reputation is still neither liberty nor property. The responsibility of balancing the need to protect a juvenile’s reputation against the need to “to promote the state’s fundamental right to provide for the ... safety of its citizens,” § 23-3-400, falls to the Legislature, not the courts, S.C. Const. art. I, § 8.

V. Conclusion

The requirement that adults and juveniles who commit criminal sexual conduct must register as a sex offender and wear an electronic monitor is not a punitive measure, and the requirement bears a rational relationship to the Legislature’s purpose in the Sex Offender Registry Act to protect our citizens—including children—from repeat sex offenders. **The requirement, therefore, is not unconstitutional.** If the requirement that juvenile sex offenders must register and must wear an electronic monitor is in need of change, that decision is to be made by the Legislature—not the courts. The decision of the family court to follow the mandatory, statutory requirement to impose lifetime sex offender registration and electronic monitoring on Justin B. is **AFFIRMED**.

In Interest of Justin B., 419 S.C. 575, 580–82, 586–87, 799 S.E.2d 675, 677–78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017) (emphasis added).

This case is binding precedent.

Notably, this decision was also issued after the *Dykes* decision relied on by the Plaintiff and this decision in fact references the *Dykes* case. Accordingly, had *Dykes* espoused a new due process test, it would have been discussed and applied in *Justin B.* However, *Dykes* did not announce a new substantive due process test, and it is error to hold otherwise. The South Carolina Supreme Court has specifically acknowledged this in *State v. Nation* noting,

A majority of this Court rejected Dykes’s arguments, holding that mandatory GPS monitoring **did not violate Dykes’s right to substantive due process**. *Id.* at 503, 744 S.E.2d at 507; *see also id.* at 510 n. 9, 744 S.E.2d at 511 n. 9 (**rejecting Dykes’s remaining arguments**). Specifically, we disagreed with Dykes’s assertion that, as a convicted sex offender, she had a *fundamental right to be “let alone.”* *Id.* at 505–06, 744 S.E.2d at 508–09 (“The United States Supreme Court has cautioned restraint in the recognition of rights deemed to be fundamental in a constitutional sense.” (citing *Washington v. Glucksberg*, 521 U.S. 702, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997))). However, notwithstanding the absence of a fundamental right, we found that lifetime GPS monitoring “implicates a protected liberty interest to be free from permanent, unwarranted governmental interference.” *Id.* at 506, 744 S.E.2d at 509. In light of the General Assembly’s intent to protect the public from sex offenders and aid law enforcement, we held that an initial, mandatory imposition of GPS monitoring for certain sex crimes involving children was rationally related to the law’s stated purpose. *Id.* at 507–08, 744 S.E.2d at 509–10.

Despite generally upholding the constitutionality of Jessie’s Law, we found the final sentence of subsection (H) unconstitutional as arbitrary and not rationally related to the statute’s purpose. *Id.* at 508, 744 S.E.2d at 510 (citing S.C. Code Ann. § 23–3–540(H)).

State v. Nation, 408 S.C. 474, 479–80, 759 S.E.2d 428, 431 (2014), *abrogated by State v. Ross*, 423 S.C. 504, 815 S.E.2d 754 (2018) (such abrogation being on other grounds) (emphasis added).

As such, there is no *Dykes* test that can be used or relied on by the Plaintiff, and the precedent set forth in *Justin B.* remains the binding authority in this State specifically rejecting a due process

challenge to the Registry. In Interest of Justin B., 419 S.C. 575, 580–82, 586-87, 799 S.E.2d 675, 677–78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017).

Accordingly, there is no viable due process claim based on the lack of individual judicial review of Plaintiff's registration requirement. In fact, the Supreme Court in *Dykes* specifically rejected this argument. See State v. Dykes, 403 S.C. 499, 510 n. 9, 744 S.E.2d 505, 511 n. 9 (rejecting Dykes' procedural due process claim under Rule 220, SCACR). The United States Supreme Court has also rejected this argument. See Connecticut v. Doe, 538 U.S. 1, 8 (2003) ("rejecting sex offender's due process argument requesting a hearing on his current level of dangerousness, and stating those 'who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in the hearing are relevant to the statutory scheme'").

Therefore, the espoused precedent in this state remains binding authority. See Daniels v. City of Goose Creek, 314 S.C. 494, 501, 431 S.E.2d 256, 260 (Ct. App. 1993); (decisions of the Supreme Court bind as precedent); S.C. Const. Art. V, § 9. **Specifically, "sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated."** In re Ronnie A., 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003) (emphasis added); Hendrix v. Taylor, 353 S.C. 542, 579 S.E.2d 320 (2003); In Interest of Justin B., 419 S.C. 575, 580–82, 586-87, 799 S.E.2d 675, 677–78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017). As such, the Plaintiff's due process claim fails as a matter of law.

III. The Plaintiff's Claims for Excessive Punishment Fail as a Matter of Law

In addition, South Carolina courts have conclusively held that registration pursuant SORA is not punishment. See State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002); Hendrix v. Taylor, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003) (finding that “the length of time one must be listed on the sex offender registry is non-punitive, and it cannot constitute a deprivation of a constitutionally protected liberty interest.”); In re Ronnie A., 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003) (finding that “sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated.”); In Interest of Justin B., 419 S.C. 575, 580–82, 586–87, 799 S.E.2d 675, 677–78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017). This precedent does not change with online publication of Registry information on the internet, which, of course, occurred prior to such decisions. See Attachment 7 (Temple Affidavit); *supra*.

Moreover, the South Carolina Legislature also made it abundantly clear that the intent of SORA is “to promote the state’s fundamental right to provide for the public health, welfare, and safety of its citizens” and to “provide law enforcement with the tools needed in investigating criminal offenses.” S.C. Code Ann. § 23-3-400. In that regard, the South Carolina Supreme Court has held that registration as a sex offender is not a punishment, but rather is a regulatory requirement imposed to promote public safety. See Williams v. State, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008). And the Registry accomplishes this stated intent. See Attachment 5 (Victims’ Advocate Affidavit); Attachment 7 (Temple Affidavit). As such, any claim asserting that SORA registration constitutes punishment of any kind, much less excessive punishment, fails as a matter of law.

EQUITABLE RELIEF IS NOT AVAILABLE AS A MATTER OF LAW

The equitable relief sought by the Plaintiff is not available as a matter of law. The binding precedent of this state mandates otherwise. Daniels v. City of Goose Creek, 314 S.C. 494, 501, 431 S.E.2d 256, 260 (Ct. App. 1993); (recognizing decisions of the Supreme Court bind as precedent); S.C. Const. Art. V, § 9. The South Carolina Supreme Court held unequivocally that a “court’s equitable powers **must yield** in the face of an unambiguously worded statute.” Santee Cooper Resort, Inc. v. S. Carolina Pub. Serv. Comm’n, 298 S.C. 179, 185, 379 S.E.2d 119, 123 (1989) (emphasis added); *see also* Key Corporate Capital, Inc. v. County of Beaufort, 373 S.C. 55, 644 S.E.2d 675 (2007) (finding error in fashioning an equitable remedy in the face of an unambiguously worded statute setting forth certain remedies). The South Carolina Legislature mandated lifetime SORA registration in South Carolina in clear, unequivocal, and unambiguous statutory language. *See* S.C. Code Ann. § 23-3-460 (mandating registration for all offenders “for life”). The words “for life” in S.C. Code Ann. § 23-3-460 could not be more clear and unequivocal. Similarly, the Legislature has specifically enumerated avenues of relief that simply do not include equitable relief. *See* S.C. Code Ann. § 23-3-430(E),(F), and (G). Because the Legislature did not include such a provision in the statute, the canon of statutory construction *expressio unius est exclusion alterius*, which holds that to express or include one thing implies the exclusion of another, is determinative. *See* Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 582 (2000); Black’s Law Dictionary 602 (7th ed. 1999). South Carolina courts have noted that this “maxim should be used to accomplish legislative intent [*i.e.* lifetime registration in South Carolina], not defeat it.” S.C. Dep’t of Consumer Affairs v. Rent-A-Ctr., Inc., 345 S.C. 251, 256, 547 S.E.2d 881, 884 (Ct. App. 2001). As such, no court can exercise equitable authority to change this statute.

Further, the binding authority in this State also provides that “[c]ourts may not ignore statutes, precedent, or other binding authority while providing an equitable remedy. Johnson v. Lloyd, 399 S.C. 470, 476, 732 S.E.2d 198, 201 (Ct. App.2012) *reversed on other grounds by Johnson v. Lloyd*, 407 S.C. 610, 611, 757 S.E.2d 705, 706 (2014). In *Johnson*, the Court of Appeals considered whether a circuit court could provide an equitable remedy that removed appellant from the sex offender registry, despite the fact that the sex offender registry provides methods for removal that the appellant did not qualify to utilize. The answer was clear and unequivocal:

The General Assembly enacted an unambiguously worded statute that sets for the legal remedies available to an individual on the registry. Because the sex offender statute provides an adequate remedy for Johnson, it was error for the circuit court to fashion an equitable remedy in this case.

Id., 399 S.C. 470, 476-77, 732 S.E.2d 198, 201. Although the Supreme Court subsequently overruled the Court of Appeals decision, the basis was not a flaw in the Court of Appeals’ rationale or ruling on the merits: “[b]ecause the State failed to argue that Petitioner [Johnson] was not entitled to equitable relief until its brief to the Court of Appeals, the issue was not preserved for appellate review. **We therefore reverse the Court of Appeals’ opinion on preservation grounds.**” Johnson v. Lloyd, 407 S.C. 610, 612, 757 S.E.2d 705, 706 (2014) (emphasis added). Accordingly, the Court of Appeals decision in *Johnson* remains binding precedent on the issue of equitable authority.

Moreover, it is well known and undisputed that “equity follows the law.” This maxim alone is a basis for denying equitable relief in this case. See Regions Bank v. Wingard Properties, Inc., 394 S.C. 241, 254-55, 715 S.E.2d 348, 255 (Ct. App. 2011); Morgan v. S.C. Budget & Control Bd., 377 S.C. 313, 319-20, 659 S.E.2d 263, 267 (Ct. App. 2008). South Carolina law is also clear

that, “[w]hether an individual must be placed on the sex offender registry is a question of law.”

Lozada v. South Carolina Law Enforcement Division, 395 S.C. 509, 719 S.E.2d 258, 259 (2011).

Furthermore, for a Court to fashion an equitable remedy in the face of an unambiguously worded statute would be a clear violation of the South Carolina Constitution’s mandate for the separation of powers. *See* S.C. Const. art. I, § 8. The South Carolina Constitution specifically provides that “the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.” S.C. Const. art. I, § 8. The duration of sex offender registration is a matter of public policy that is solely in the province of the South Carolina Legislature. As such, any attempt by any court to invade the Legislature’s exclusive province is a violation of the separation of powers and is unconstitutional. *Id.* In addition, the South Carolina Supreme Court specifically held that

[i]f a statute’s language is plain, unambiguous, and conveys a clear meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” Buist v. Huggins, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006) (internal quotes and citation omitted). Instead, the words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute’s operation. *Id.* Moreover, **“it is beyond this Court’s power to effect a change in the statutes enacted by the Legislature.”** State v. Corey D., 339 S.C. 107, 120, 529 S.E.2d 20, 27 (2000); *see also* Keyserling v. Beasley, 322 S.C. 83, 86, 470 S.E.2d 100, 101 (1996) (this Court does “not sit as a superlegislature to second guess the wisdom or folly of decisions of the General Assembly”).

Key Corporate Capital, Inc. v. County of Beaufort, 373 S.C. 55, 59, 644 S.E.2d 675 (2007)

(emphasis added). This entire action seeks for this Court to impermissibly and unconstitutionally act as a “superlegislature” and to add language to an unambiguously worded constitutional statute. As such, this request must fail and the Defendants are entitled to summary judgment in this matter.

This situation is comparable to legislatively mandated sentences for criminal offenses, whether minimums or maximums. With regard to sentencing for an offense that has a mandatory sentence range, the South Carolina Legislature has unilaterally prohibited judges from sentencing individuals outside the statutorily set amounts. However, these statutory ranges, and more specifically the statutorily mandated minimum sentences are, and have been consistently upheld as being, lawful. *See State v. De La Cruz*, 302 S.C. 13, 393 S.E.2d 184 (1990); *State v. Jones*, 344 S.C. 48, 543 S.E.2d 541 (2001); *State v. Johnson*, 350 S.C. 543, 567 S.E.2d 486 (Ct. App. 2002). In fact, the South Carolina Supreme Court conclusively resolved this issue in *State v. De La Cruz* indicating

[w]e have held in the past that “[t]he penalty assessed for a particular offense is, except in the rarest of cases, **“purely a matter of legislative prerogative,”** and the legislature’s judgment will not be disturbed.” *State v. Smith*, 275 S.C. 164, 167, 268 S.E.2d 276, 277 (1980) (quoting *Rummel v. Estelle*, 445 U.S. 263, 100 S.Ct. 1133, 63 L.Ed.2d 382 (1980)). Judicial discretion in sentencing, in suspending sentences, and in designating that sentences run concurrent or consecutive is subject to statutory restriction. *See Mistretta v. United States*, 488 U.S. 361, ----, 109 S.Ct. 647, 650, 102 L.Ed.2d 714, 725-726 (1989), wherein the United States Supreme Court noted, “Congress, of course, has the power to fix the sentence for a federal crime, and the scope of judicial discretion with respect to a sentence is subject to congressional control.” (Citing *United States v. Wiltberger*, 18 U.S. (5 Wheat) 76, 5 L.Ed. 37 (1820); *Ex Parte United States*, 242 U.S. 27, 37 S.Ct. 72, 61 L.Ed. 129 (1916)).

302 S.C. 13, 15-16, 393 S.E.2d 184, 186 (1990) (emphasis added).² Similarly, the duration of an individual’s sex offender registration is **purely a matter of legislative prerogative** and there is no judicial discretion over this duration without violating the South Carolina Constitution and South Carolina law. S.C. Const. art. I, § 8; S.C. Code Ann. §23-3-430; S.C. Code Ann. § 23-3-460 (setting forth lifetime registration in South Carolina in an unambiguously worded statute).

² It is noteworthy that sex offender registration has been consistently held not to be “punitive in purpose or effect as to constitute a criminal penalty.” *State v. Walls*, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002). However, the same sentiment would apply to an administrative requirement like registration in terms of the legislative prerogative.

In this case, the Plaintiff contends that requiring registration is fundamentally unfair given his fact situation. This argument is without merit. The Plaintiff plead guilty to Criminal Solicitation of a Minor and this conviction mandates lifetime registration. South Carolina's Sex Offender Registry statutes, S.C. Code Ann. § 23-3-400 *et seq.*, list the only mechanisms and avenues by which an individual can be removed from the Sex Offender Registry. These are the only lawful and permissible avenues by which an individual who is properly placed on the Registry can be removed. There is no genuine issue of material fact to suggest that the Plaintiff meets any of these statutory criteria. Accordingly, the Defendants respectfully assert that this Court's equitable powers must yield to the clear and unambiguous language of SORA, and the Defendants are entitled to judgment as a matter of law.

INACCURACIES AND MISCHARACTERIZATIONS

Although aforementioned South Carolina law and jurisprudence indicates that there is no legally cognizable constitutional or equitable claim in this matter, the Defendants are informed and believe that rebutting the Plaintiff's myriad of incorrect assertions is not required because none of these have any bearing whatsoever on the decision in this case. However, the Defendants would like to take this opportunity to "set the proverbial record straight" because the Plaintiff routinely asserts factual inaccuracies in his filings by intentionally mischaracterizing evaluations and conclusions performed by his doctors. In addition, the Plaintiff attempts to mischaracterize his crime in this matter. Also, the Plaintiff repeatedly elaborates on fictional restrictions that he blames the Registry imposes on him with no actual legal support whatsoever. These flawed characterizations and assertions have no bearing on the actual issues of this case. However, the Defendants would assert the following in rebuttal of the same:

1. Mischaracterization of Doctor Evaluations and Risk of Reoffending

The Plaintiff asserts that he is of no risk of reoffending. This is false and even the Plaintiff's own doctors contravene this assertion. Dr. William Burke evaluated the Plaintiff in 2009. *See* Attachment 9 (Burke Evaluation). He provided in his evaluation that "Based upon the STATIC-99 score, this places Mr. Powell in the **Low Medium risk category** relative to other adult male sex offenders." This indicates unequivocally that the Plaintiff has a risk of reoffending, albeit a Low Medium risk. The STATIC-99 is an instrument designed to assist in the prediction of sexual and violent recidivism for sexual offenders that provides scores that are either in the Low, Medium-Low, Medium-High, or High Category. *Id.* There is not even a category for **no risk** of recidivism because that category does not exist. As such, Dr. Burke clearly concluded that the Plaintiff presents a risk of reoffending, and this cannot be argued otherwise. *Id.*

The Plaintiff also sought out the services of Dr. Thomas V. Martin in 2009. *See* Attachment 10 (Martin 2009). Dr. Martin opined in his evaluation: "It is also my opinion that Mr. Powell is a low-risk to re-offend sexually while he continues in therapeutic treatment." *Id.* Furthermore, Dr. Martin provided an affidavit in this current action in which Dr. Martin stated, "[i]t is the opinion of this Examiner to a reasonable degree of medical and psychiatric certainty that Mr. Powell poses a very low risk to sexually reoffend." Attachment 11 (Martin 2017). As such, even Dr. Martin concluded on two separate occasions that the Plaintiff is at risk of reoffending, albeit a low one – not that he presents **no risk**. As such, it is factually and legally inaccurate to articulate otherwise.

Most significant in the matter of reoffending is that the South Carolina General Assembly explicitly stated in S.C. Code Ann. § 23-3-400, which is the purpose section of SORA, that "[s]tatistics show that sex offenders often pose a high risk of re-offending." This is a statutory finding that is well within the province of the Legislature to make. *See Smith v. Doe*, 538 U.S.

84, 103, 123 S.Ct. 1140, 1153 (2003). As such, there is no conclusion that can be derived after an **accurate reading** of the evaluations of the Plaintiff's **two** different doctors provided that concludes the Plaintiff poses **no risk** of reoffending. Any statement to the contrary, as is frequented by the Plaintiff, is blatantly false and intentionally misleading. The undisputed factual record in this matter dictates otherwise. As such, this argument is of no consequence.

2. Criminal Solicitation with a Minor is not a Victimless Crime

The growth of the internet in the last two decades has given rise to a new and dangerous avenue for sexual predators to prey on minors. The ability to solicit minors for sexual purposes is now possible with simply a few keystrokes. Accordingly, this crime is taken very seriously by the State of South Carolina. The South Carolina Attorney General's Office and other state and federal prosecutors dedicate considerable resources, often in unison with other state and federal law enforcement agencies, to arrest and prosecute these dangerous predators. The crime of criminal solicitation specifically provides that a person is guilty if the person has the **intent** to perform a sexual act in the presence of a person under the age of eighteen, or a person **reasonably believed** to under the age of eighteen. *See* S.C. Code Ann. § 16-15-342. The Plaintiff's guilty plea constitutes an admission of such. *See* Attachment 2 (Sentencing Sheet); Attachment 3 (Plea Transcript).

In order to protect vulnerable minors in our society from irreversible harm, this law exists because simply attempting this type of sexual conduct with someone believed to be under eighteen is a most serious offense. Often times, arrests for this offense occur after a "sting" operation, which is when law enforcement poses undercover online as minors in order to catch these sexual predators. To say this is a victimless crime because the solicited person is not actually a minor is directly contrary to the conduct the law seeks to prevent, and it goes against the government's

mandate to protect society from these dangerous individuals. Lastly, SORA has the express purpose of aiding law enforcement and protecting the public. As such, SORA provides no distinction between whether an actual minor is solicited or an undercover police officer is solicited, because what matters is simply the intent of the perpetrator, which in this case was for a 22-year old that

did knowingly though the Internet contact and communicate with a person located within the County of Lexington, State of South Carolina, whom he reasonably believed to be a twelve year-old girl, for the purpose of or with the intent of persuading, inducing, enticing, or coercing this person to engage or participate in a sexual activity as defined in Section 16-15-375(5).

Put simply, Criminal Solicitation of a Minor is not a victimless crime and to say that it constitutes an affront to all victims of sexual offenses because this completely disregards the ripple effect that crime has on the victims themselves and community at large. *See* Attachment 5 (Victims' Advocate Affidavit). It is error to claim otherwise. Although again, this claim is of no consequence.

3. Additional Claims of "Hardship"

In his 2009 sentencing hearing, Plaintiff's criminal attorney stated: "it's no coincidence that we select first doctor Larry Bergman from Post-traumatic Resources, the reason being is that he is about the toughest guy known and is a victim's advocate. That's how he's developed his career. We didn't want to go to have Dennis seen by somebody and counseled and treated by somebody who was going to let him think that he was a victim and that he needed to accept responsibility." *See* Attachment 12 (Plea Transcript). Further, Dr. Bergman testified that "[Mr. Powell] hasn't tried to minimize what he has done." *Id.* Unfortunately, since that time the Plaintiff has gone out of his way at every opportunity to do just that. Plaintiff claims he is a victim of

numerous “hardships”, none of which are relevant to this action as legally cognizable direct punishment attributable to the Registry. As such, these assertions have no bearing on this action.

The 2008 South Carolina Court of Appeals case *Williams v. State* addressed the characterization of “consequences” related the sexual offender registry. “The imposition of a sentence may have a number of collateral consequences, however, and a plea of guilty is not rendered involuntary in a constitutional sense if the defendant is not informed of the collateral consequences.” Williams v. State, 378 S.C. 511, 514, 662 S.E.2d 615, 617 (2008) (citing Brown v. State, 306 S.C. 381, 382-83, 412 S.E.2d 399, 400 (1991)). The court determined that a defendant does not have to be advised of all of the collateral consequences of his plea in order for the plea to withstand constitutional scrutiny. “The distinction between ‘direct’ and ‘collateral’ consequences of a plea ... turns on whether the result represents a definite, immediate and largely automatic effect on the range of the defendant’s punishment.” Williams v. State, 378 S.C. 511, 515 (2008) (internal citations omitted). A consequence that the defendant must be informed of is one which impacts the sentence imposed on the defendant, and as such, is a direct consequence. Williams v. State, 378 S.C. 511, 515 (2008). In *Williams*, the Court found that sex offender registration is a collateral consequence, not a direct consequence. *Id.* As such, the Plaintiff’s claims of hardship are not even collateral consequences. In fact, they are best characterized as collateral to the collateral consequence of registration. Accordingly, any perceived hardship suffered by the Plaintiff, even if assumed as true, has no bearing whatsoever on this action and simply does not rise to the level of legally cognizable punishment. *See Williams v. State*, 378 S.C. 511, 514, 662 S.E.2d 615, 617 (2008).

Therefore, even assuming all of the Plaintiff’s “hardships” as true, this does not and cannot alter the binding precedent in this State which concludes unequivocally that online public

registration is **NOT PUNISHMENT**. See State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002); Hendrix v. Taylor, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003); In re Ronnie A., 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003) (finding that “sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated.”); In Interest of Justin B., 419 S.C. 575, 580–82, 586-87, 799 S.E.2d 675, 677–78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017).

Moreover, the Plaintiff is treated the same as all other similarly-situated South Carolina sex offenders and can claim no disparate treatment whatsoever. See Attachment 6 (RCSO Affidavit); Attachment 7 (Temple Affidavit).

THE PLAINTIFF CLAIMS IN THIS ACTION FAIL AS A MATTER OF LAW

The South Carolina Legislature has mandated that SORA registration in South Carolina is for life. See S.C. Code Ann. § 23-3-460 (mandating registration “for life”). This lifetime mandate is set forth in clear, unequivocal, and unambiguous statutory language and represents the clear policy of South Carolina’s lawmakers. As such, this specific statutory language is determinative and leaves no room for judicial interpretation or second-guessing. See Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000); Charleston County Sch. Dist. v. State Budget and Control Bd., 313 S.C. 1, 437 S.E.2d 6 (1993) (“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.”); In re Vincent J., 333 S.C. 233, 509 S.E.2d 261 (1998) (“Under the plain meaning rule, it is not the court’s place to change the meaning of a clear and unambiguous statute.”) (internal citations omitted). Further, South Carolina jurisprudence on this issue is clear, “[w]here the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to

impose another meaning. In re Vincent J., 333 S.C. 233, 509 S.E.2d 261, 262 (1998) (citing Paschal v. State Election Comm'n, 317 S.C. 434, 454 S.E.2d 890 (1995)).

SORA, and more specifically S.C. Code Ann. § 23-3-430(E), (F), (G), provides the only lawful mechanisms and avenues by which an individual can be removed from the SORA registry.

Pursuant to § 23-3-430(E),

SLED shall remove a person's name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person's adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.

S.C. Code Ann. § 23-3-430(E). Pursuant to § 23-3-430(F), an offender who receives a pardon "based on a finding of not guilty specifically stated in the pardon" shall be removed. S.C. Code Ann. § 23-3-430(F). And finally, pursuant to § 23-3-430(G) individuals exonerated subsequent to filing a petition for a writ of habeas corpus or a motion for a new trial are removed. S.C. Code Ann. § 23-3-430(G). However, there is no genuine issue of material fact to suggest that Plaintiff meets any of these statutory criteria and, in fact, he concedes that he does not. *See* Complaint. Accordingly, there is no legal or constitutional basis for the Plaintiff to be removed from the SORA registry and the Defendants are entitled to judgment as a matter of law. As was conclusively held in *Justin B.*,

If the requirement that juvenile sex offenders must register and must wear an electronic monitor is in need of change, that decision is to be made by the Legislature—not the courts. The decision of the family court to follow the mandatory, statutory requirement to impose lifetime sex offender registration and electronic monitoring on Justin B. is **AFFIRMED**.

In Interest of Justin B., 419 S.C. 575, 580–82, 586–87, 799 S.E.2d 675, 677–78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017). As such, the Plaintiff

has brought his arguments to the wrong forum and only the South Carolina Legislature can re-write the clear and unequivocal laws applicable to this case.

CONCLUSION

Disregarding Supreme Court precedent or any binding precedent is legal error. See State v. Phillips, 416 S.C. 184, 194, 785 S.E.2d 448, 453 (2016) (“[I]t is incumbent upon the court of appeals to apply this Court’s precedent.”); S.C. Const. art. V, § 9 (“The decisions of the Supreme Court shall bind the Court of Appeals as precedents.”) The Defendants would argue that what is true for the Court of Appeals is certainly true for any circuit court. As such, the binding precedent of this State as set forth above is determinative in this matter.

Accordingly, for the reasons stated above, any to be set forth in any subsequent memorandum of law, and all those advanced at any hearing on this matter; judgment as a matter of law on all issues should be granted to the Defendants.

Respectfully Submitted,

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Attorney General

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ATTORNEYS FOR CHIEF KEEL AND SLED

COLUMBIA, SOUTH CAROLINA
NOVEMBER 2, 2018

WITNESSES

Traci Barr - Lexington Sheriff's Department

ARREST WARRANT NUMBER

J-848218

ACTION OF GRAND JURY

THE BILL

Donald Leachant
Foreperson of Grand Jury

Date: 12-1-08

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-32 *3887*

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

December TERM

THE STATE

vs.

Dennis J. Powell, Jr.

Indictment for

**CRIMINAL SOLICITATION
OF A MINOR**

SC Code: 16-15-0342

CDR Code: 2999

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

A TRUE COPY

Lex. Co. C.C.C.P. G.S. & F.C.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF LEXINGTON)

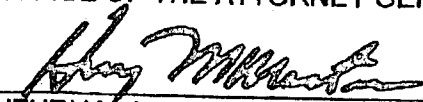
CRIMINAL SOLICITATION OF A MINOR

At a Court of General Sessions, convened on 12-1-2008, the Grand Jurors of Lexington County present upon their oath:

That Dennis Powell, Jr., on or about November 12, 2007 to February 15, 2008, did willfully and knowingly commit the crime of criminal solicitation of a minor. To wit: Dennis Powell, Jr., a person eighteen years of age or older, did knowingly through the Internet contact and communicate with a person located within the County of Lexington, State of South Carolina, whom he reasonably believed to be twelve year-old girl, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5). This is in direct violation of Section 16-15-342, of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL


HENRY McMASTER (SPC)
ATTORNEY GENERAL

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

LEXINGTON

VS.

DENNIS J. POWELL, JR.

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: CRIMINAL SOLICITATION OF A MINOR (0-10 YEARS)

in violation of § 16-15-342 of the S.C. Code of Laws, bearing CDR Code # 2999

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1" or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

SC Bar # 74070

Defendant

Attorney for Defendant

SC Bar # 5642

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for 7

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
§35.13 (Public Def/Prob)	\$500
§73.3, 1B TP (Law Enforce. Funding)	\$25
§33.7, 1B TP (Drug Court Surcharge)	\$100
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
§90.11 TP (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

Clerk of Court/ Deputy Clerk

Court Reporter:

Deborah W. McBride
Richard County
J. Williams

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008 -GS- 323287

A/W#: J-8446218

Date of Offense: 11/12/07 - 2/15/08

S.C. Code §: 16-15-342

CDR Code #: 2999

SENTENCE SHEET

Judge Code: 2126

Sentence Date: 2-9-10

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

COURT OF GENERAL SESSIONS

2008-GS-40-3887

State of South Carolina)

vs.)

TRANSCRIPT OF RECORD

Guilty Plea

Dennis J. Powell, Jr.,)

Defendant.)

April 2, 2009
Columbia, South Carolina

BEFORE:

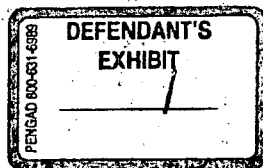
THE HONORABLE G. THOMAS COOPER, JR., JUDGE

APPEARANCES:

S. Prentiss Counts, Assistant Attorney General
Attorney for the State of South Carolina

Douglas Truslow, Esq.
Attorney for the Defendant

JENNY H. WILLIAMS
Official Court Reporter
(803) 351-9742



2-14

2

1 MS. COUNTS: Are you ready, Your Honor?

2 THE COURT: Yes, ma'am.

3 MS. COUNTS: Your Honor, the State calls Dennis J.

4 Powell, Jr.

5 THE COURT: Ms. Counts.

6 MS. COUNTS: Your Honor, Mr. Powell is here to plead
7 guilty to criminal solicitation of a minor, the indictment
8 number 08-GS-32-3887. This is a Lexington County case and
9 the defendant has signed a waiver to plead guilty, a
10 waiver of venue to plead guilty here today. The State is
11 dismissing two charges and pursuant to the plea agreement
12 attempted criminal sexual conduct with a minor and
13 attempted dissemination of obscene materials to minor.

14 THE COURT: Attempted?

15 MS. COUNTS: Attempted. Yes, Your Honor.

16 THE CLERK: Raise your right hand, please, sir.

17 Dennis J. Powell, having been first duly sworn,
18 pleads guilty as follows:

19 THE CLERK: Please stand right in front of that mike.

20 THE COURT: Mr. Truslow, you represent Dennis Powell,
21 Jr.?

22 MR. TRUSLOW: Yes, Your Honor.

23 THE COURT: It's my understanding these charges were
24 brought in Lexington County; is that correct?

25 MR. TRUSLOW: Yes, sir.

1 THE COURT: Have you advised your client of his right
2 to have these charges heard and decided in Lexington
3 County?

4 MR. TRUSLOW: Yes, sir. And he's indicated that he
5 wished to waive that and have that hearing here.

6 THE COURT: All right. I believe that has always
7 sort of been a sticking point. But I believe that venue
8 is one thing and jurisdiction is something else. But does
9 he consent to the jurisdiction of this court?

10 MR. TRUSLOW: Yes, sir.

11 THE COURT: Mr. Powell, do you understand what I have
12 just asked your lawyer?

13 MR. POWELL: Yes, sir.

14 THE COURT: Is it your desire that this court in
15 Richland County hear this case that was originally brought
16 in Lexington County? Is that your request?

17 MR. POWELL: Yes, sir.

18 THE COURT: All right. Mr. Truslow, have you advised
19 your client of the charge contained in this indictment?
20 Is there an indictment in this case?

21 MS. COUNTS: There should be a true copy in the
22 folder that was handed up.

23 THE CLERK: I didn't hand it to you, Your Honor.

24 THE COURT: I'm sorry. I'm sorry.

25 MR. TRUSLOW: I have, Your Honor.

1 THE COURT: I have it. All right. So it has been
2 indicted?

3 MS. COUNTS: Yes, Your Honor.

4 THE COURT: All right. Thank you. How does your
5 client indicate he wishes to plead?

6 MR. TRUSLOW: He's indicated that he wishes to plead
7 guilty.

8 THE COURT: Mr. Powell, you're charged in this.
9 indictment, sir, with criminal solicitation of a minor, a
10 charge which carries a penalty of up to ten years in jail
11 and a fine of not more than \$5,000. Do you understand
12 that?

13 MR. POWELL: Yes, sir.

14 THE COURT: Understanding the charge you face and the
15 punishment you could receive, how do you wish to plead?
16 Guilty or not guilty?

17 MR. POWELL: Guilty.

18 THE COURT: You understand by pleading guilty you're
19 giving up your right to remain silent?

20 MR. POWELL: Yes, sir.

21 THE COURT: You understand by pleading guilty you are
22 giving up your right to a trial by jury?

23 MR. POWELL: Yes, sir.

24 THE COURT: If you request or demand a trial by jury,
25 the State would give you a trial. Do you understand that?

1 MR. POWELL: Yes, sir.

2 THE COURT: At that trial you would have the right to
3 confront and cross examine all witnesses against you. You
4 would have the right to present any witnesses and/or
5 evidence in your own defense. You'd have a right to
6 testify in your own defense if you wished to do so, but no
7 one could make you testify at your own trial.

8 If you decided to go to trial and not testify, the
9 judge would tell the jury they could not even hold your
10 failure to testify against you. In fact, the jury
11 couldn't even consider your failure to testify in their
12 deliberations on your guilt or innocence.

13 You'd be presumed innocent throughout your trial.
14 The State would have to prove you guilty beyond a
15 reasonable doubt to a jury of 12 people and all 12 people
16 would have to unanimously agree that you were guilty in
17 order for you to be convicted. Even if you were
18 convicted, you'd still have the right to appeal that
19 conviction. Do you understand your rights with regard to
20 a trial by a jury?

21 MR. POWELL: Yes, sir.

22 THE COURT: Understanding those rights, do you still
23 want to plead guilty, or do you want me to set your case
24 for trial?

25 MR. POWELL: I plead guilty.

1 THE COURT: Has anyone promised you anything, held
2 any hope of reward, threatened you in any manner to make
3 you plead guilty?

4 MR. POWELL: No, sir.

5 THE COURT: Are you satisfied with the manner in
6 which your attorney has represented you in this case?

7 MR. POWELL: Yes, sir.

8 THE COURT: Have you and your attorney fully
9 discussed these charges against you?

10 MR. POWELL: Yes, sir.

11 THE COURT: Has your attorney told you the witnesses
12 and evidence the State has available to present at trial
13 to prove that you're guilty?

14 MR. POWELL: Yes, sir.

15 THE COURT: All right. Has he done everything you
16 asked him to in preparation for this plea?

17 MR. POWELL: Yes, sir.

18 THE COURT: All right. You're satisfied with his
19 advice?

20 MR. POWELL: Yes, sir.

21 THE COURT: Are you under the influence of any
22 alcoholic beverages, drugs or prescription medications at
23 this time?

24 MR. POWELL: No, sir.

25 THE COURT: Are you aware of any mental, emotional or

1 nervous conditions that you have that would interfere with
2 your ability to understand what you are doing here today?

3 MR. POWELL: No, sir.

4 THE COURT: You clearly understand what you're doing
5 here today?

6 MR. POWELL: Yes, sir.

7 THE COURT: Are you pleading guilty today of your own
8 free will and accord?

9 MR. POWELL: Yes, sir.

10 THE COURT: All right, Solicitor. Madam Attorney
11 General, give me a factual basis for the plea.

12 MS. COUNTS: Your Honor, on October 24th, 2007,
13 Investigator Tracy Barr, standing behind me, was posing as
14 a 13-year-old girl in a Yahoo chat room in Lexington
15 County using the screen name DJPJR77. The defendant
16 contacted the investigator's persona. They began
17 chatting. I have a copy of those chats to hand up now.

18 THE COURT: All right.

19 MS. COUNTS: Your Honor, the Defendant and the
20 investigator had a total of 11 chats. The defendant also
21 contacted the undercover agent approximately 19 times when
22 she was offline, so there was no actual chat but there was
23 contact made. The 11 contacts resulted in chats that were
24 of a sexual nature.

25 In the chats he asked the minor about her sexual

1 history. He said it would be fun to teach her how to
2 perform oral sex. He says he wanted to suck her nipples.
3 On January 24th, 2008, the defendant sent the minor a
4 picture of his penis. On February 22nd, 2008, the
5 defendant arranged to meet the undercover at a skating
6 rink for the purpose of sex.

7 The defendant arrived at the location, passing it
8 three times slowly. The undercover then made a traffic
9 stop and the defendant was arrested. He made both verbal
10 and written confession. The defendant has no prior
11 record, Your Honor.

12 THE COURT: Is that what happened, Mr. Powell?

13 MR. POWELL: Yes, sir.

14 THE COURT: I find the decision of the Defendant,
15 Dennis Powell, Jr., to plead guilty to be freely,
16 voluntarily and intelligently made. He's had the
17 representation of a competent attorney in the person of
18 Mr. Truslow with whom he says he's satisfied. I find a
19 factual basis for the plea and therefore will accept the
20 plea.

21 Mr. Powell, if you disagree with the sentence I give
22 you or the procedure we have just completed, you have ten
23 days from today's date within which to file notice of
24 intent to appeal. Do you understand?

25 MR. POWELL: Yes, sir.

1ST
CHAT

SEXUAL
QUESTIONS

CRIMINAL
SOLICITATION

Abs K (10/24/2007 4:30:25 PM): hey 13 west columbia
djpjr77 (10/24/2007 4:30:36 PM): hows it going
Abs K (10/24/2007 4:30:40 PM): good u
Abs K (10/24/2007 4:30:45 PM): wuz up today
djpjr77 (10/24/2007 4:30:54 PM): not much, trying to stay dry
Abs K (10/24/2007 4:31:16 PM): lol yeah its yucky
djpjr77 (10/24/2007 4:31:31 PM): what are you doing today
Abs K (10/24/2007 4:31:38 PM): bored lol
djpjr77 (10/24/2007 4:31:53 PM): me too
Abs K (10/24/2007 4:31:56 PM): LOL
Abs K (10/24/2007 4:32:01 PM):
djpjr77 (10/24/2007 4:32:08 PM): have any pics or cam
Abs K (10/24/2007 4:32:30 PM): nooo I wish my mom dont let me
Abs K (10/24/2007 4:32:32 PM): she sux
djpjr77 (10/24/2007 4:32:39 PM): lol, why not
Abs K (10/24/2007 4:33:04 PM): she wuld kill me if she new i wuz chatin
Abs K (10/24/2007 4:33:05 PM): lol
Abs K (10/24/2007 4:33:06 PM): shhh
djpjr77 (10/24/2007 4:33:29 PM): why is that
Abs K (10/24/2007 4:34:04 PM): she says i will get hurt by a cerial killer
Abs K (10/24/2007 4:34:06 PM): LOL
Abs K (10/24/2007 4:34:11 PM): watever
djpjr77 (10/24/2007 4:34:20 PM): lets hope not
Abs K (10/24/2007 4:34:26 PM): i no
djpjr77 (10/24/2007 4:34:47 PM): what do you look like
Abs K (10/24/2007 4:34:52 PM): a gulr
Abs K (10/24/2007 4:34:56 PM): jus kidin
Abs K (10/24/2007 4:35:07 PM): i got brown hair and brown eyes
Abs K (10/24/2007 4:35:15 PM): long hair
djpjr77 (10/24/2007 4:35:25 PM): cool
Abs K (10/24/2007 4:35:31 PM): u
djpjr77 (10/24/2007 4:35:41 PM): brown hair, blue eyes
Abs K (10/24/2007 4:35:48 PM): ooh nice
djpjr77 (10/24/2007 4:35:48 PM): 5'11
Abs K (10/24/2007 4:35:51 PM): nicer
Abs K (10/24/2007 4:35:53 PM): lol
Abs K (10/24/2007 4:35:58 PM): dang ur tall
Abs K (10/24/2007 4:36:03 PM): how old r u
djpjr77 (10/24/2007 4:36:05 PM): how short are u
Abs K (10/24/2007 4:36:10 PM): 506
djpjr77 (10/24/2007 4:36:20 PM): I'm 22
Abs K (10/24/2007 4:36:23 PM): kewl
Abs K (10/24/2007 4:36:28 PM): im 13
djpjr77 (10/24/2007 4:36:41 PM): young
Abs K (10/24/2007 4:36:52 PM): my frends say i look 15
djpjr77 (10/24/2007 4:37:04 PM): lol, why is that

Abs K (10/24/2007 4:37:12 PM): jus do i ges
djpjr77 (10/24/2007 4:37:31 PM): must have a nice body
Abs K (10/24/2007 4:37:36 PM): lol
Abs K (10/24/2007 4:37:42 PM):
Abs K (10/24/2007 4:37:52 PM):
djpjr77 (10/24/2007 4:37:53 PM):
Abs K (10/24/2007 4:37:57 PM): hee hee
Abs K (10/24/2007 4:38:14 PM): so wat u doin
djpjr77 (10/24/2007 4:38:43 PM): not much, just watching the dogs chase each other
Abs K (10/24/2007 4:38:50 PM): lol aww wat kind
Abs K (10/24/2007 4:38:58 PM): i got a begal
djpjr77 (10/24/2007 4:39:02 PM): Lab, and two chihuahuas
Abs K (10/24/2007 4:39:07 PM): awwwwwwwwww
Abs K (10/24/2007 4:39:20 PM): i luv animals
djpjr77 (10/24/2007 4:39:36 PM): me too, dont know what I would do without these guys
Abs K (10/24/2007 4:39:38 PM): thats y i wanna be a vet
djpjr77 (10/24/2007 4:39:48 PM): good for you
djpjr77 (10/24/2007 4:40:39 PM): are you home alone
Abs K (10/24/2007 4:40:49 PM): yes in my room
Abs K (10/24/2007 4:40:58 PM): moms still out
djpjr77 (10/24/2007 4:41:10 PM): wish you had a cam or a pic
Abs K (10/24/2007 4:41:20 PM): no joke dude me 2
Abs K (10/24/2007 4:41:25 PM): lol
Abs K (10/24/2007 4:41:41 PM): i get asked that all tha time
Abs K (10/24/2007 4:41:58 PM): she wont even let me have myspace
Abs K (10/24/2007 4:42:15 PM): she rely striced
djpjr77 (10/24/2007 4:42:20 PM): thats good
Abs K (10/24/2007 4:42:24 PM): NOoooo
djpjr77 (10/24/2007 4:43:46 PM): have a bf
Abs K (10/24/2007 4:44:02 PM): not no more
Abs K (10/24/2007 4:44:08 PM): we broke up
djpjr77 (10/24/2007 4:44:14 PM): y
Abs K (10/24/2007 4:44:31 PM): saw me at the skatin rink w a guy
djpjr77 (10/24/2007 4:44:41 PM): lol, cheating on him
Abs K (10/24/2007 4:44:52 PM): yes
djpjr77 (10/24/2007 4:45:01 PM): damn girl
Abs K (10/24/2007 4:45:02 PM): told him i wuz sorry
djpjr77 (10/24/2007 4:45:22 PM): were you hooking up with the guy
Abs K (10/24/2007 4:45:34 PM): jus kissed him is all
djpjr77 (10/24/2007 4:46:11 PM): have you done anything else other than kiss
Abs K (10/24/2007 4:46:21 PM): no
djpjr77 (10/24/2007 4:46:47 PM): do you want to
Abs K (10/24/2007 4:46:53 PM): lol
Abs K (10/24/2007 4:46:58 PM): dunno
Abs K (10/24/2007 4:47:30 PM): scard it will hurt
djpjr77 (10/24/2007 4:47:46 PM): I think it does the first time

Abs K (10/24/2007 4:47:53 PM): hnm
djpjr77 (10/24/2007 4:48:05 PM): depends on how big the guy is
Abs K (10/24/2007 4:48:27 PM): i ges
djpjr77 (10/24/2007 4:48:40 PM): have you ever seen one before
Abs K (10/24/2007 4:49:07 PM): not rely
Abs K (10/24/2007 4:49:15 PM): i mean like on tv an stuff
Abs K (10/24/2007 4:49:26 PM): saw em in a magazin
djpjr77 (10/24/2007 4:49:56 PM): wish I could show you mine
Abs K (10/24/2007 4:50:05 PM): rely?
djpjr77 (10/24/2007 4:50:20 PM): sure
Abs K (10/24/2007 4:50:25 PM): hmmm
Abs K (10/24/2007 4:50:27 PM): lol
djpjr77 (10/24/2007 4:50:36 PM):
Abs K (10/24/2007 4:51:04 PM):
Abs K (10/24/2007 4:51:11 PM):
djpjr77 (10/24/2007 4:51:50 PM): do you know how to give a bj
Abs K (10/24/2007 4:51:59 PM): no
Abs K (10/24/2007 4:52:03 PM): not rely
djpjr77 (10/24/2007 4:52:34 PM): that would be fun to teach you, lol
Abs K (10/24/2007 4:52:39 PM): ok
Abs K (10/24/2007 4:52:41 PM): lol
djpjr77 (10/24/2007 4:53:39 PM): wish I still had my cam so I could show you ✖
Abs K (10/24/2007 4:53:52 PM): yea
djpjr77 (10/24/2007 4:54:10 PM): where do u go to school
Abs K (10/24/2007 4:54:22 PM): noo
Abs K (10/24/2007 4:54:27 PM): not tellin
Abs K (10/24/2007 4:54:41 PM): u might be a cop r teacher
djpjr77 (10/24/2007 4:54:54 PM): lol, trust me I'm neither
Abs K (10/24/2007 4:55:08 PM): no
Abs K (10/24/2007 4:55:23 PM): i dont want no trouble
djpjr77 (10/24/2007 4:55:38 PM): I wouldnt get you in trouble ✖
Abs K (10/24/2007 4:56:37 PM): sorry
djpjr77 (10/24/2007 4:56:43 PM): thats ok
djpjr77 (10/24/2007 4:57:02 PM): would you want to see my cock ✖
Abs K (10/24/2007 4:57:15 PM): yea i ges
Abs K (10/24/2007 4:57:16 PM): lol
Abs K (10/24/2007 4:57:21 PM):
Abs K (10/24/2007 4:57:25 PM):
djpjr77 (10/24/2007 4:57:25 PM): in person
Abs K (10/24/2007 4:57:49 PM): dunno never done that
Abs K (10/24/2007 4:57:58 PM): r u a cop??
djpjr77 (10/24/2007 4:58:03 PM): fuck no
Abs K (10/24/2007 4:58:08 PM): i no cops bust kids lik me
djpjr77 (10/24/2007 4:58:19 PM): I'm not
Abs K (10/24/2007 4:58:23 PM): u might bust me if we met
djpjr77 (10/24/2007 4:58:37 PM): no I promise

Abs K (10/24/2007 4:59:01 PM): hmm
djpjr77 (10/24/2007 4:59:37 PM): I'm the one who would get in trouble
Abs K (10/24/2007 4:59:58 PM): i never seen l in person
Abs K (10/24/2007 5:00:14 PM): but i dont want my mom or cops to no if we did
Abs K (10/24/2007 5:00:31 PM): she wuld kill me
djpjr77 (10/24/2007 5:00:48 PM): I would be in trouble, not you trust me
Abs K (10/24/2007 5:01:11 PM): u can add me as ur buddy if u want
Abs K (10/24/2007 5:01:16 PM): u seem jkew
Abs K (10/24/2007 5:01:19 PM): oops kewl
Abs K (10/24/2007 5:01:21 PM): lol
Abs K (10/24/2007 5:01:44 PM): kewl
djpjr77 (10/24/2007 5:02:18 PM): I wish I could show it to you now, its getting hard, lol
Abs K (10/24/2007 5:02:52 PM): well u can if u wanna u gott cam
Abs K (10/24/2007 5:02:55 PM): lol
djpjr77 (10/24/2007 5:03:06 PM): no I wish i did
Abs K (10/24/2007 5:03:17 PM): o well
Abs K (10/24/2007 5:03:42 PM): aww i c ur puppy
Abs K (10/24/2007 5:03:47 PM): hes cute
djpjr77 (10/24/2007 5:03:47 PM): so if we met what would you want to do
djpjr77 (10/24/2007 5:03:52 PM): ty
Abs K (10/24/2007 5:03:54 PM): dunno
Abs K (10/24/2007 5:04:05 PM): nevr met any l
Abs K (10/24/2007 5:04:14 PM): never had sex
djpjr77 (10/24/2007 5:04:33 PM): no we wouldnt have sex, you're too young
Abs K (10/24/2007 5:04:45 PM): wer u live
djpjr77 (10/24/2007 5:04:51 PM): columbia
Abs K (10/24/2007 5:04:57 PM): me too
Abs K (10/24/2007 5:05:03 PM): im in west columbia
djpjr77 (10/24/2007 5:05:20 PM): lm in downtown columbia
Abs K (10/24/2007 5:05:25 PM): o
Abs K (10/24/2007 5:05:40 PM): well i gotta bike but i cant go ther
Abs K (10/24/2007 5:05:42 PM): lol
djpjr77 (10/24/2007 5:06:00 PM): lol, what is near you
Abs K (10/24/2007 5:06:05 PM): y u want 2 c me
Abs K (10/24/2007 5:06:08 PM): u dont no me
Abs K (10/24/2007 5:06:18 PM): r u a cerial killer
Abs K (10/24/2007 5:06:19 PM): lol
djpjr77 (10/24/2007 5:06:25 PM): no
djpjr77 (10/24/2007 5:06:50 PM): do you have boobs yet
Abs K (10/24/2007 5:07:03 PM): yes 36 a
djpjr77 (10/24/2007 5:07:15 PM): mmmmmmm
Abs K (10/24/2007 5:07:18 PM): hmmm
Abs K (10/24/2007 5:07:28 PM): i dont like em
Abs K (10/24/2007 5:07:29 PM): lol
djpjr77 (10/24/2007 5:07:35 PM): why
Abs K (10/24/2007 5:07:48 PM): i fell werd withem

Abs K (10/24/2007 5:07:52 PM): i dunno
djpjr77 (10/24/2007 5:08:28 PM): I like kissing on boobs, lol
Abs K (10/24/2007 5:08:38 PM): rely?
djpjr77 (10/24/2007 5:08:45 PM): yes
Abs K (10/24/2007 5:08:51 PM):
Abs K (10/24/2007 5:08:53 PM): lol
djpjr77 (10/24/2007 5:09:05 PM): I like sucking on the nipples
Abs K (10/24/2007 5:09:12 PM): hmm
Abs K (10/24/2007 5:10:06 PM): do u gotta gf
djpjr77 (10/24/2007 5:10:31 PM): no
Abs K (10/24/2007 5:10:35 PM): lol k
djpjr77 (10/24/2007 5:10:59 PM): sorry had to get the phone. I have to go to a meeting, want to chat tomorrow
Abs K (10/24/2007 5:11:08 PM): k
Abs K (10/24/2007 5:11:20 PM): i get home from scholl at 4 or so
djpjr77 (10/24/2007 5:11:34 PM): ok, talk to you later
Abs K (10/24/2007 5:11:42 PM): bye
djpjr77 (10/24/2007 5:11:45 PM): bye

djpr77 (11/12/2007 5:49:20 PM): hows it going abbey, long time no talk
 Abs K (11/12/2007 5:49:31 PM): hey
 djpr77 (11/12/2007 5:49:53 PM): what have you been up to
 Abs K (11/12/2007 5:50:24 PM): no much
 Abs K (11/12/2007 5:50:55 PM): how old r u
 djpr77 (11/12/2007 5:51:12 PM): 22
 Abs K (11/12/2007 5:51:20 PM): kewl cant member
 Abs K (11/12/2007 5:51:31 PM): lol (2 here 12 yrs old)
 djpr77 (11/12/2007 5:51:51 PM): thats right
 Abs K (11/12/2007 5:51:57 PM): how ur dog
 djpr77 (11/12/2007 5:52:07 PM): she's good
 Abs K (11/12/2007 5:52:29 PM): awww
 djpr77 (11/12/2007 5:52:59 PM): so what are you doing tonight
 Abs K (11/12/2007 5:53:20 PM): brb k
 djpr77 (11/12/2007 5:53:39 PM): ok
 Abs K (11/12/2007 5:55:14 PM): sorry
 Abs K (11/12/2007 5:55:19 PM): im doin good u
 djpr77 (11/12/2007 5:55:40 PM): not bad, so what are you up to tonight
 Abs K (11/12/2007 5:56:17 PM): jus eatin pizza n chilin
 djpr77 (11/12/2007 5:58:07 PM): thought you weren't allowed on the comp at night
 Abs K (11/12/2007 5:58:16 PM): lol moms still at work
 Abs K (11/12/2007 5:58:18 PM): shhhhhhhhhhh
 djpr77 (11/12/2007 5:58:40 PM): so what are you doing all alone
 Abs K (11/12/2007 5:58:58 PM): lol jus surfen
 Abs K (11/12/2007 5:58:59 PM): lol
 djpr77 (11/12/2007 5:59:15 PM): I wish you lived closer
 Abs K (11/12/2007 5:59:23 PM): me 2
 Abs K (11/12/2007 5:59:25 PM): lol
 Abs K (11/12/2007 5:59:26 PM): y
 djpr77 (11/12/2007 5:59:46 PM): so we could hang out and you could show that sexy
 body to me, lol
 Abs K (11/12/2007 5:59:52 PM): lol
 djpr77 (11/12/2007 6:00:16 PM): have any pics you can send me
 Abs K (11/12/2007 6:00:31 PM): lol no sorry
 djpr77 (11/12/2007 6:00:40 PM):
 Abs K (11/12/2007 6:00:46 PM):
 djpr77 (11/12/2007 6:00:47 PM): what are u wearing
 djpr77 (11/12/2007 6:02:34 PM): still there?
 Abs K (11/12/2007 6:02:39 PM): yea sorry
 djpr77 (11/12/2007 6:03:04 PM): how long till your mom cums home
 Abs K (11/12/2007 6:03:29 PM): 1 hour
 djpr77 (11/12/2007 6:03:43 PM): so what are you wearing
 Abs K (11/12/2007 6:03:54 PM): white shirt w jeans
 djpr77 (11/12/2007 6:04:06 PM): mmm, sounds sexy
 Abs K (11/12/2007 6:04:16 PM): lol
 djpr77 (11/12/2007 6:04:30 PM): what are u wearing underneathe

Asked for
 Threesome

WANTED TO
 CRIMINAL
 SOLICITING

DISSED,
 TAKING
 PIC
 OF PEWS

Abs K (11/12/2007 6:04:46 PM): bra n pink panties
 djpr77 (11/12/2007 6:05:01 PM):
 Abs K (11/12/2007 6:05:27 PM): lol
 djpr77 (11/12/2007 6:05:31 PM): wish I could see u in them
 Abs K (11/12/2007 6:05:37 PM): hmmm
 djpr77 (11/12/2007 6:06:31 PM): you wouldn't like that?
 Abs K (11/12/2007 6:06:38 PM): dunno
 Abs K (11/12/2007 6:06:39 PM): lol
 djpr77 (11/12/2007 6:06:58 PM): thinking about you in them is making my cock hard X
 Abs K (11/12/2007 6:07:03 PM): lol no way
 djpr77 (11/12/2007 6:07:08 PM): yes
 Abs K (11/12/2007 6:07:11 PM): dang X
 djpr77 (11/12/2007 6:07:27 PM): do u like that?
 Abs K (11/12/2007 6:07:53 PM): i ges
 Abs K (11/12/2007 6:07:55 PM): yea
 djpr77 (11/12/2007 6:08:29 PM): I'll have to take a pic of it for you if you want X
 Abs K (11/12/2007 6:08:53 PM): of wat?
 djpr77 (11/12/2007 6:09:04 PM): my hard cock X
 Abs K (11/12/2007 6:09:09 PM): lol
 djpr77 (11/12/2007 6:09:32 PM): or I could show it to u in person
 Abs K (11/12/2007 6:09:36 PM): rely?
 djpr77 (11/12/2007 6:09:43 PM): if u want
 Abs K (11/12/2007 6:09:44 PM): or are u jokin
 djpr77 (11/12/2007 6:09:51 PM): serious X
 Abs K (11/12/2007 6:09:54 PM): kewl
 djpr77 (11/12/2007 6:10:19 PM): are u interested in seeing one or just mine X
 Abs K (11/12/2007 6:10:43 PM): dunno u seem kewl 2 me
 Abs K (11/12/2007 6:10:53 PM): never seen 1 in person
 djpr77 (11/12/2007 6:11:20 PM): I wish you were holding it now, it's so hard X
 Abs K (11/12/2007 6:11:27 PM): hmmm
 djpr77 (11/12/2007 6:12:06 PM): do u know how to give a hand job or blow job X
 Abs K (11/12/2007 6:12:33 PM): no
 djpr77 (11/12/2007 6:12:48 PM): want to
 Abs K (11/12/2007 6:13:00 PM): dunno
 djpr77 (11/12/2007 6:13:33 PM): how do u look in those pink panties
 Abs K (11/12/2007 6:13:41 PM): ok i ges
 Abs K (11/12/2007 6:13:42 PM): lol
 djpr77 (11/12/2007 6:14:06 PM): I bet u do, I wish I could see u in them teasing me
 Abs K (11/12/2007 6:14:29 PM): im not a tease
 djpr77 (11/12/2007 6:14:51 PM): no, I would want u to tease me in them X
 Abs K (11/12/2007 6:15:22 PM): hmmm
 djpr77 (11/12/2007 6:15:53 PM): you could do a little dance for me or just bend over in X
 them sexy, lol
 Abs K (11/12/2007 6:15:59 PM): k
 Abs K (11/12/2007 6:16:02 PM): lol

djpjr77 (11/12/2007 6:16:26 PM): have any hot friends who would want to join or would you rather it just be us ✕
Abs K (11/12/2007 6:16:35 PM): lol rely
Abs K (11/12/2007 6:16:50 PM): i have kissed a gurl but i aint dun anything eles
djpjr77 (11/12/2007 6:17:21 PM): I could teach you two how to play with my cock ✕
Abs K (11/12/2007 6:17:55 PM): i dunno i dont want 1 of my freinds to tell nobody
djpjr77 (11/12/2007 6:18:02 PM): thats true
Abs K (11/12/2007 6:18:07 PM): but watever u want i will do
Abs K (11/12/2007 6:18:08 PM): lol
djpjr77 (11/12/2007 6:18:21 PM): mmmm, damn you are turning me on
Abs K (11/12/2007 6:18:39 PM): huh
djpjr77 (11/12/2007 6:19:00 PM): thinking about you walking around in your panties for me is hot ✕
Abs K (11/12/2007 6:19:09 PM): lol
Abs K (11/12/2007 6:19:11 PM): k
djpjr77 (11/12/2007 6:19:38 PM): I'm about to cum, hold on ✕
Abs K (11/12/2007 6:20:27 PM): k
Abs K (11/12/2007 6:20:57 PM): wats cum? is that like sperm ✕
djpjr77 (11/12/2007 6:21:26 PM): yes,
Abs K (11/12/2007 6:21:35 PM): o
djpjr77 (11/12/2007 6:22:41 PM): gotta go, talk to u later
Abs K (11/12/2007 6:22:52 PM): k

djpjr77 (12/7/2007 2:14:56 PM): whats up abs

djpr:77 (12/10/2007 4:05:16 PM): whats up abs

Abs K (12/14/2007 4:32:20 PM): hey not much how ya been.
djpr77 (12/14/2007 7:10:05 PM): pretty good, how have you been

AA Asked to
MEET

djpjr77 (12/18/2007 4:06:52 PM): whats up
Abs K (12/18/2007 4:07:02 PM): hey u wat up
djpjr77 (12/18/2007 4:07:12 PM): how ya been
Abs K (12/18/2007 4:07:19 PM): good u
Abs K (12/18/2007 4:07:23 PM): ready for santa?
djpjr77 (12/18/2007 4:07:40 PM): yes, already have the cookies waiting for him, lol
djpjr77 (12/18/2007 4:08:06 PM): done with school yet
Abs K (12/18/2007 4:08:46 PM): not yet
djpjr77 (12/18/2007 4:08:58 PM): so what ya doing
Abs K (12/18/2007 4:09:06 PM): chillin
djpjr77 (12/18/2007 4:09:15 PM): all by yourself
Abs K (12/18/2007 4:09:21 PM): yea moms still at work
djpjr77 (12/18/2007 4:09:28 PM): till when
Abs K (12/18/2007 4:09:50 PM): like 5 i think
Abs K (12/18/2007 4:09:52 PM): y
djpjr77 (12/18/2007 4:10:06 PM): dont know, Im bored
Abs K (12/18/2007 4:10:31 PM): yeah me 2
djpjr77 (12/18/2007 4:10:41 PM): wanna play
Abs K (12/18/2007 4:10:47 PM): ?
djpjr77 (12/18/2007 4:11:00 PM): want to meet up
Abs K (12/18/2007 4:11:22 PM): i dunno wat u wanna do
Abs K (12/18/2007 4:11:36 PM): is it ok im 12
djpjr77 (12/18/2007 4:11:41 PM): me too
Abs K (12/18/2007 4:12:00 PM): huh?
Abs K (12/18/2007 4:12:05 PM): how old r u
djpjr77 (12/18/2007 4:12:05 PM): ik
djpjr77 (12/18/2007 4:12:13 PM): 18
Abs K (12/18/2007 4:12:19 PM): o ok
Abs K (12/18/2007 4:12:25 PM): were do u live
djpjr77 (12/18/2007 4:12:29 PM): columbia
Abs K (12/18/2007 4:12:37 PM): i only got a bike
Abs K (12/18/2007 4:12:43 PM): do u got a car?
djpjr77 (12/18/2007 4:12:48 PM): yes
Abs K (12/18/2007 4:13:17 PM): ur not like a ceral killer r u
djpjr77 (12/18/2007 4:13:22 PM): no
djpjr77 (12/18/2007 4:13:24 PM): are you
Abs K (12/18/2007 4:13:26 PM): lol
Abs K (12/18/2007 4:13:40 PM): can i get in troubel for meetin u
Abs K (12/18/2007 4:13:52 PM): my mom wuld kill me
djpjr77 (12/18/2007 4:14:08 PM): I wouldnt tell anyone, we're just meeting
Abs K (12/18/2007 4:14:20 PM): o
djpjr77 (12/18/2007 4:14:30 PM): where u want to meet
Abs K (12/18/2007 4:14:38 PM): im scared
Abs K (12/18/2007 4:14:46 PM): i dunno maybe if i new u more
djpjr77 (12/18/2007 4:14:54 PM): ok, thats fine
Abs K (12/18/2007 4:14:58 PM): sorry

djpjr77 (12/18/2007 4:15:06 PM): thats ok
djpjr77 (12/18/2007 4:15:13 PM): have any pics yet
Abs K (12/18/2007 4:15:42 PM): not yet
Abs K (12/18/2007 4:15:50 PM): maybe santa will get me a camera for xmas
djpjr77 (12/18/2007 4:16:03 PM): I hope so, I want to see your fine ass
Abs K (12/18/2007 4:16:09 PM): lol
Abs K (12/18/2007 4:16:13 PM): aww ty
Abs K (12/18/2007 4:16:18 PM): do u got any pics
djpjr77 (12/18/2007 4:16:30 PM): not on here
Abs K (12/18/2007 4:16:41 PM): ok
djpjr77 (12/18/2007 4:16:58 PM): tell me what you look like again since I cant meet or see you
Abs K (12/18/2007 4:17:11 PM): i got brown hair and brown eyes
djpjr77 (12/18/2007 4:17:22 PM): sound hot
Abs K (12/18/2007 4:17:31 PM): i gess
Abs K (12/18/2007 4:17:38 PM): lol
Abs K (12/18/2007 4:17:48 PM): do u got a kewl car
djpjr77 (12/18/2007 4:17:58 PM): yea
Abs K (12/18/2007 4:18:42 PM):
djpjr77 (12/18/2007 4:19:08 PM): what are you wearing since I cant see u today, I have to imagine u
Abs K (12/18/2007 4:19:20 PM): jeans and red tshirt
djpjr77 (12/18/2007 4:19:32 PM): how does your ass look in jeans
Abs K (12/18/2007 4:19:38 PM): good i gess
djpjr77 (12/18/2007 4:19:57 PM):
Abs K (12/18/2007 4:20:04 PM):
Abs K (12/18/2007 4:20:14 PM): lol
djpjr77 (12/18/2007 4:20:43 PM): wish we could meet up I want to see how nice it is, lol
Abs K (12/18/2007 4:21:00 PM): hmm
djpjr77 (12/18/2007 4:21:25 PM): hmmmmmm
djpjr77 (12/18/2007 4:22:59 PM): what are you thinking about
Abs K (12/18/2007 4:23:04 PM): i dunno
djpjr77 (12/18/2007 4:23:55 PM): what are u wearing underneath
Abs K (12/18/2007 4:24:26 PM): lol
Abs K (12/18/2007 4:24:30 PM):
Abs K (12/18/2007 4:24:59 PM): panties
djpjr77 (12/18/2007 4:25:36 PM): mmmmmmm
djpjr77 (12/18/2007 4:26:18 PM): can we talk later, someone is at my door
Abs K (12/18/2007 4:26:34 PM): ok
djpjr77 (12/18/2007 4:26:36 PM): bye
Abs K (12/18/2007 4:26:41 PM): ill be onl here if u wanna chat later
djpjr77 (12/18/2007 4:26:46 PM): ok
Abs K (12/18/2007 4:26:51 PM): bye

djpjr77 (12/20/2007 7:47:39 PM): hey abs

Asked to
meet

djpjr77 (12/26/2007 4:24:58 PM): hey abs
Abs K (12/26/2007 4:25:02 PM): hey
Abs K (12/26/2007 4:25:05 PM): wats up
djpjr77 (12/26/2007 4:25:11 PM): nada, what about you
Abs K (12/26/2007 4:25:23 PM): hangin out
Abs K (12/26/2007 4:25:24 PM): lol
Abs K (12/26/2007 4:25:27 PM): cute dog
djpjr77 (12/26/2007 4:25:32 PM): ty
djpjr77 (12/26/2007 4:25:40 PM): how was your christmas
Abs K (12/26/2007 4:25:55 PM): GREAT
Abs K (12/26/2007 4:25:57 PM): how bout u
djpjr77 (12/26/2007 4:26:24 PM): good, wish I was still sleeping though. Still tired from
it all
Abs K (12/26/2007 4:26:30 PM): lol awww
djpjr77 (12/26/2007 4:27:19 PM): what ya doing
Abs K (12/26/2007 4:27:23 PM): chillin
Abs K (12/26/2007 4:27:25 PM): lol
Abs K (12/26/2007 4:27:29 PM): moms at work
Abs K (12/26/2007 4:27:37 PM):
djpjr77 (12/26/2007 4:27:44 PM): till when
Abs K (12/26/2007 4:29:00 PM): late tonite
Abs K (12/26/2007 4:29:04 PM): like 10 or so
djpjr77 (12/26/2007 4:29:15 PM): so what are you doing till then
Abs K (12/26/2007 4:29:32 PM): i dunno
Abs K (12/26/2007 4:29:33 PM): lol
djpjr77 (12/26/2007 4:29:48 PM): want to meet up
Abs K (12/26/2007 4:30:03 PM): for real?
djpjr77 (12/26/2007 4:30:19 PM): sure
Abs K (12/26/2007 4:30:38 PM): i aint got a car im only 13
djpjr77 (12/26/2007 4:30:56 PM): where would you want to meet
Abs K (12/26/2007 4:31:07 PM): u no were west columbia is
djpjr77 (12/26/2007 4:31:14 PM): yes
Abs K (12/26/2007 4:31:29 PM): i live near the barn yard
djpjr77 (12/26/2007 4:31:52 PM): where is that
Abs K (12/26/2007 4:31:59 PM): on augusta rd
djpjr77 (12/26/2007 4:32:13 PM): ok
djpjr77 (12/26/2007 4:32:31 PM): so where would we meet
Abs K (12/26/2007 4:32:42 PM): i dunno
Abs K (12/26/2007 4:32:46 PM): wat u wanna do
djpjr77 (12/26/2007 4:33:10 PM): dunno, hang out
Abs K (12/26/2007 4:33:21 PM): hmm
djpjr77 (12/26/2007 4:33:31 PM): what would you like to do
Abs K (12/26/2007 4:33:42 PM): dunno wat ever u want
djpjr77 (12/26/2007 4:33:56 PM): give me some ideas
Abs K (12/26/2007 4:34:10 PM): i never done this b 4 so u gotta tell me
Abs K (12/26/2007 4:34:12 PM): lol

Abs K (12/26/2007 4:34:13 PM): ~~sitt~~
djpjr77 (12/26/2007 4:34:38 PM): me either. if you could do anything what would it be
Abs K (12/26/2007 4:34:44 PM): LOL
Abs K (12/26/2007 4:35:06 PM): anything i gess
Abs K (12/26/2007 4:35:09 PM): i dunno
djpjr77 (12/26/2007 4:35:35 PM): ok, where do u want to meet bc it will be getting dark soon
Abs K (12/26/2007 4:35:49 PM): maybe we shuld wait
Abs K (12/26/2007 4:36:07 PM): im kinda scared ill get im trouble
Abs K (12/26/2007 4:36:11 PM): ya no
djpjr77 (12/26/2007 4:36:19 PM): trouble with who
Abs K (12/26/2007 4:36:26 PM): wat if my mom finds out
djpjr77 (12/26/2007 4:36:35 PM): who is going to tell her
Abs K (12/26/2007 4:36:59 PM): im not
djpjr77 (12/26/2007 4:37:06 PM): me either
Abs K (12/26/2007 4:37:26 PM): lol
Abs K (12/26/2007 4:37:33 PM): i dont rely no u
Abs K (12/26/2007 4:37:42 PM): u mite be a ceral killa
djpjr77 (12/26/2007 4:37:52 PM): thats why we are meeting so we can get to know each other ✕
Abs K (12/26/2007 4:38:41 PM):
djpjr77 (12/26/2007 4:39:14 PM): where
Abs K (12/26/2007 4:39:51 PM): i cant tonite
djpjr77 (12/26/2007 4:39:56 PM): why
Abs K (12/26/2007 4:40:18 PM): cause my sitter kathy will be here at 6pm
Abs K (12/26/2007 4:40:28 PM): she mite tell my mom if i leave
djpjr77 (12/26/2007 4:40:51 PM): that sucks, I wanted to see you. what are you wearing today ✕
Abs K (12/26/2007 4:41:06 PM): jeans
Abs K (12/26/2007 4:41:14 PM): black sweatshirt
djpjr77 (12/26/2007 4:41:29 PM): mmmmmmm I bet your ass looks nice in jeans
Abs K (12/26/2007 4:41:49 PM): lol
djpjr77 (12/26/2007 4:42:17 PM): did u get any sexy new clothes for christmas
Abs K (12/26/2007 4:42:31 PM): yessssssssssss
Abs K (12/26/2007 4:42:36 PM): i got a pocket book
djpjr77 (12/26/2007 4:42:45 PM): thats not sexy
Abs K (12/26/2007 4:43:03 PM): i got pjs
Abs K (12/26/2007 4:43:07 PM): pants
Abs K (12/26/2007 4:43:09 PM): skirts
Abs K (12/26/2007 4:43:14 PM): stuff like that
djpjr77 (12/26/2007 4:43:27 PM): wish you had some pics, I would love to see u ✕
Abs K (12/26/2007 4:44:52 PM): i got pics jus not on my puter
djpjr77 (12/26/2007 4:45:11 PM): how can I see them then ✕
Abs K (12/26/2007 4:45:21 PM): lol
djpjr77 (12/26/2007 4:46:48 PM): what are you wearing under ur jeans n sweatshirt
Abs K (12/26/2007 4:47:02 PM): panties

djpjr77 (12/26/2007 4:47:11 PM): what do they look like
Abs K (12/26/2007 4:47:29 PM): hot pink strips
Abs K (12/26/2007 4:47:37 PM): blue white pink
Abs K (12/26/2007 4:47:39 PM): y
djpjr77 (12/26/2007 4:47:54 PM): wish I could see u in them.
Abs K (12/26/2007 4:47:59 PM): lol
Abs K (12/26/2007 4:48:04 PM):
djpjr77 (12/26/2007 4:48:18 PM): my cock is so hard right now
Abs K (12/26/2007 4:48:27 PM): wat lol
Abs K (12/26/2007 4:48:29 PM): rely
djpjr77 (12/26/2007 4:48:33 PM): yes
Abs K (12/26/2007 4:49:07 PM): hmmm
Abs K (12/26/2007 4:50:31 PM):
djpjr77 (12/26/2007 4:51:18 PM): see ya later, I have to feed the dogs and go shopping
Abs K (12/26/2007 4:51:25 PM): ok nye
Abs K (12/26/2007 4:51:27 PM): bye

djpjr77 (12/28/2007 3:54:10 PM): whats up abs
djpjr77 (12/28/2007 4:05:13 PM): whats up hottie, what ya doin
Abs K (12/28/2007 4:51:32 PM): hey im here

djpjr77 (12/29/2007 9:11:26 AM): hey baby

djpjr77 (1/3/2008 2:21:09 PM): whats up abs
djpjr77 (1/3/2008 2:39:42 PM): whats up abs

djpjr77 (1/8/2008 3:49:00 PM): hey abs

Abs K (1/9/2008 4:19:13 PM): hey wuzzup

djpr77 (1/24/2008 4:23:08 PM): hey abby, how have you been
 Abs K (1/24/2008 5:11:46 PM): HEY U were ya been hidden :)
 djpr77 (1/24/2008 5:12:03 PM): no where, what about you
 Abs K (1/24/2008 5:12:20 PM): hey
 Abs K (1/24/2008 5:12:22 PM): lol
 Abs K (1/24/2008 5:12:31 PM): i wuz on restricktion
 djpr77 (1/24/2008 5:12:37 PM): for what
 Abs K (1/24/2008 5:13:32 PM): gotta bad grade
 Abs K (1/24/2008 5:13:34 PM): lol
 djpr77 (1/24/2008 5:13:51 PM): bad girl, sounds like you need a spanking, lol *
 Abs K (1/24/2008 5:13:55 PM): lol
 Abs K (1/24/2008 5:14:13 PM): hey i gotta run next door to see my friend u wanna chat later
 Abs K (1/24/2008 5:14:18 PM): tonite
 djpr77 (1/24/2008 5:14:23 PM): when?
 Abs K (1/24/2008 5:15:08 PM): idk
 Abs K (1/24/2008 5:15:22 PM): or tomorow
 djpr77 (1/24/2008 5:15:29 PM): when is your mom coming home
 Abs K (1/24/2008 5:15:39 PM): later tomorow nite
 Abs K (1/24/2008 5:15:48 PM): is it ok then
 djpr77 (1/24/2008 5:15:55 PM): well I wanted to send you a pic that I thought you might like
 Abs K (1/24/2008 5:16:02 PM): kewl
 djpr77 (1/24/2008 5:16:22 PM): hang on, I have to download it from my cam *
 Abs K (1/24/2008 5:17:00 PM): email me if u want absnwcola@yahoo.com
 djpr77 (1/24/2008 5:17:29 PM): hang on babe, I want to hear your reaction *
 Abs K (1/24/2008 5:17:35 PM): k
 Abs K (1/24/2008 5:17:53 PM): send it
 djpr77 (1/24/2008 5:17:59 PM): so are you home alone?
 Abs K (1/24/2008 5:18:02 PM): YEA
 Abs K (1/24/2008 5:18:03 PM): lol
 Abs K (1/24/2008 5:18:56 PM): will i get in troubel if i open
 Abs K (1/24/2008 5:18:58 PM): lol
 djpr77 (1/24/2008 5:19:02 PM): no
 Abs K (1/24/2008 5:19:23 PM): k my mom wuld kill me n i wuld not make it to 13
 Abs K (1/24/2008 5:20:00 PM): lol OMG
 Abs K (1/24/2008 5:20:07 PM): THATS BIG
 Abs K (1/24/2008 5:20:14 PM): is that u
 djpr77 (1/24/2008 5:20:27 PM): yes, its not even all the way hard *
 Abs K (1/24/2008 5:20:41 PM): i aint never seen a pic of one lol *
 Abs K (1/24/2008 5:20:44 PM): wat u mean
 Abs K (1/24/2008 5:20:49 PM): all the way
 djpr77 (1/24/2008 5:20:53 PM): gets bigger *
 Abs K (1/24/2008 5:20:57 PM): NO WAY
 Abs K (1/24/2008 5:20:59 PM): RELY
 djpr77 (1/24/2008 5:21:00 PM): yes

Pic

ATI. Dis. CIBSC. Mar

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16-15-345

djpjr77 (1/24/2008 5:21:15 PM): do u like it
Abs K (1/24/2008 5:21:17 PM): dang dude
Abs K (1/24/2008 5:21:30 PM): its got hair 2
djpjr77 (1/24/2008 5:21:49 PM): little bit
Abs K (1/24/2008 5:22:13 PM): lol it looks GIANT
Abs K (1/24/2008 5:22:14 PM): lol
djpjr77 (1/24/2008 5:22:19 PM): lol
djpjr77 (1/24/2008 5:22:23 PM): do u like it
Abs K (1/24/2008 5:22:29 PM): yea
Abs K (1/24/2008 5:22:47 PM): so u got a web cam that u took it with X
djpjr77 (1/24/2008 5:22:58 PM): no, digital cam X
Abs K (1/24/2008 5:23:01 PM): o
Abs K (1/24/2008 5:23:10 PM): kool
djpjr77 (1/24/2008 5:23:21 PM): wish you had one so I could see u X
Abs K (1/24/2008 5:23:26 PM): me 2
Abs K (1/24/2008 5:23:42 PM): u seem rely nice n kool
djpjr77 (1/24/2008 5:23:46 PM): ty
Abs K (1/24/2008 5:24:23 PM): bet u got all kinds of gurls
djpjr77 (1/24/2008 5:24:53 PM): not really
djpjr77 (1/24/2008 5:25:18 PM): wish I could show it to u in person X
Abs K (1/24/2008 5:25:37 PM): rely
djpjr77 (1/24/2008 5:25:44 PM): yea
Abs K (1/24/2008 5:25:45 PM): hmmm
Abs K (1/24/2008 5:25:56 PM): u aint a kidnaper r ya
Abs K (1/24/2008 5:25:59 PM): lol
djpjr77 (1/24/2008 5:26:00 PM): no
Abs K (1/24/2008 5:26:30 PM): k
Abs K (1/24/2008 5:27:04 PM): u ok wer u at

djpr77 (1/25/2008 4:24:30 PM): hey abbey
Abs K (1/25/2008 7:22:58 PM): hey u

djpjr77 (1/27/2008 7:26:58 AM): hey you
Abs K (1/27/2008 3:41:23 PM): hey there
Abs K (1/27/2008 3:41:29 PM):

djnr77 (1/29/2008 2:56:43 PM): hey ahs

Abs K (1/31/2008 3:51:49 PM): hey .
djpjr77 (1/31/2008 5:11:22 PM): whats up

134cs
OCD
UC

Criminal
Sexual
of minor

X SEXUALLY GRAPHIC
CHAT

X ASKED TO MEET

djpjr77 (2/1/2008 3:00:45 PM): whats up
djpjr77 (2/1/2008 4:24:26 PM): hey abs
Abs K (2/1/2008 4:27:11 PM): supp
djpjr77 (2/1/2008 4:27:23 PM): what ya doin
Abs K (2/1/2008 4:27:39 PM): good
Abs K (2/1/2008 4:27:42 PM): wacha duin
djpjr77 (2/1/2008 4:27:50 PM): nothing
Abs K (2/1/2008 4:28:07 PM): lol
djpjr77 (2/1/2008 4:28:10 PM): what about you
Abs K (2/1/2008 4:28:15 PM): cant be on long gotta go off
djpjr77 (2/1/2008 4:28:22 PM): why
Abs K (2/1/2008 4:28:36 PM): going to the mall or bowlin later
djpjr77 (2/1/2008 4:28:52 PM): with your bf
Abs K (2/1/2008 4:28:57 PM): no silly
Abs K (2/1/2008 4:29:02 PM): i dont have 1
djpjr77 (2/1/2008 4:29:15 PM): how does your fine ass not have a bf
Abs K (2/1/2008 4:29:20 PM): going w my friends
Abs K (2/1/2008 4:29:24 PM): LOL
Abs K (2/1/2008 4:29:29 PM): IDK
djpjr77 (2/1/2008 4:29:43 PM): do u still have my pic that I sent X
Abs K (2/1/2008 4:29:50 PM): i mean i got friends but not any like u mean
Abs K (2/1/2008 4:29:57 PM): wich 1
djpjr77 (2/1/2008 4:30:04 PM): the one you liked
Abs K (2/1/2008 4:30:10 PM): ur dogs
djpjr77 (2/1/2008 4:30:21 PM): lol, you dont remember
Abs K (2/1/2008 4:30:26 PM): OOOOH
Abs K (2/1/2008 4:30:33 PM): I FORGOT BOUT THAT I
Abs K (2/1/2008 4:30:35 PM): LOL OMG
djpjr77 (2/1/2008 4:30:46 PM): what
Abs K (2/1/2008 4:30:48 PM): jk
Abs K (2/1/2008 4:30:53 PM):
Abs K (2/1/2008 4:30:56 PM):
djpjr77 (2/1/2008 4:31:00 PM): did u like it X
Abs K (2/1/2008 4:31:13 PM): ur penis pic?? ->
djpjr77 (2/1/2008 4:31:20 PM): lol
Abs K (2/1/2008 4:31:26 PM): that 1 u sent
Abs K (2/1/2008 4:31:28 PM): yea
djpjr77 (2/1/2008 4:31:43 PM): what did u like
Abs K (2/1/2008 4:32:01 PM): lol i never seen 1 like it
Abs K (2/1/2008 4:32:08 PM): only in movies n stuff
djpjr77 (2/1/2008 4:32:14 PM): what movies
Abs K (2/1/2008 4:32:22 PM): like HBO n stuff
djpjr77 (2/1/2008 4:32:30 PM): lol
djpjr77 (2/1/2008 4:33:03 PM): did u tell your friends about it X
Abs K (2/1/2008 4:33:21 PM): NO
djpjr77 (2/1/2008 4:33:25 PM): good X

Abs K (2/1/2008 4:33:28 PM): they will talk
 Abs K (2/1/2008 4:33:46 PM): i no caus they talk about other gurls like that
 djpr77 (2/1/2008 4:33:57 PM): definitely dont
 djpr77 (2/1/2008 4:34:11 PM): so when would you like to see it ✕
 Abs K (2/1/2008 4:35:06 PM): wat u mean
 Abs K (2/1/2008 4:35:10 PM): on here
 djpr77 (2/1/2008 4:35:16 PM): for real ✕
 Abs K (2/1/2008 4:35:22 PM): no way u lie
 Abs K (2/1/2008 4:35:25 PM): for real ✕
 djpr77 (2/1/2008 4:35:35 PM): yes
 Abs K (2/1/2008 4:35:45 PM): ok
 Abs K (2/1/2008 4:35:47 PM): lol
 djpr77 (2/1/2008 4:36:01 PM): when
 Abs K (2/1/2008 4:36:10 PM): idk
 Abs K (2/1/2008 4:36:17 PM): my mom works later next week
 Abs K (2/1/2008 4:36:33 PM): like tuesday
 Abs K (2/1/2008 4:36:36 PM): ?
 djpr77 (2/1/2008 4:36:40 PM): ok
 Abs K (2/1/2008 4:36:51 PM): ur jokin
 djpr77 (2/1/2008 4:36:59 PM): no im not
 Abs K (2/1/2008 4:37:00 PM): kool
 Abs K (2/1/2008 4:37:04 PM): WAIT
 Abs K (2/1/2008 4:37:10 PM): u aint no cop or teacher r ya
 Abs K (2/1/2008 4:37:17 PM): i dont wanna get busted
 djpr77 (2/1/2008 4:37:21 PM): no, I tell u this all the time ✕
 Abs K (2/1/2008 4:37:24 PM): lol
 Abs K (2/1/2008 4:37:32 PM): im scared of gettin caught
 djpr77 (2/1/2008 4:37:36 PM): me too ✕
 Abs K (2/1/2008 4:37:39 PM): lol
 djpr77 (2/1/2008 4:37:39 PM): we wont ✕
 Abs K (2/1/2008 4:37:44 PM): u sure
 djpr77 (2/1/2008 4:37:50 PM): yes
 djpr77 (2/1/2008 4:38:02 PM): what would u like to do to it ✕
 Abs K (2/1/2008 4:38:15 PM): idk waht u want me to do with it
 Abs K (2/1/2008 4:38:16 PM): lol
 Abs K (2/1/2008 4:38:24 PM): i never done anything like this
 djpr77 (2/1/2008 4:38:47 PM): well have you ever thought about it
 Abs K (2/1/2008 4:38:55 PM): kinda
 Abs K (2/1/2008 4:39:12 PM): gurl at my school did but shes got a big mouth
 Abs K (2/1/2008 4:39:20 PM): i dont want no body to no ok
 djpr77 (2/1/2008 4:39:34 PM): me either. she did what? ✕
 Abs K (2/1/2008 4:39:41 PM): me sum guy
 djpr77 (2/1/2008 4:39:55 PM): ?
 Abs K (2/1/2008 4:40:03 PM): huh
 djpr77 (2/1/2008 4:40:08 PM): she did what
 Abs K (2/1/2008 4:40:15 PM): me him at the mall

Abs K (2/1/2008 4:40:16 PM): lol
 djpr77 (2/1/2008 4:40:23 PM): what did she do
 Abs K (2/1/2008 4:40:32 PM): thtas all she wuld say
 Abs K (2/1/2008 4:40:38 PM): i lthink she lied
 djpr77 (2/1/2008 4:41:01 PM): so what have you thought about
 Abs K (2/1/2008 4:41:14 PM): if i got caught i wuld not make it to 14 LOI
 Abs K (2/1/2008 4:41:24 PM): wat u look like
 Abs K (2/1/2008 4:41:28 PM): n stuff
 djpr77 (2/1/2008 4:41:45 PM): brown hair blue eyes
 Abs K (2/1/2008 4:42:04 PM): how old r u agin
 Abs K (2/1/2008 4:42:08 PM): i dont care
 djpr77 (2/1/2008 4:42:11 PM): 20
 Abs K (2/1/2008 4:42:14 PM): k
 djpr77 (2/1/2008 4:43:26 PM): so what have you thought about doing
 Abs K (2/1/2008 4:43:39 PM): idk
 djpr77 (2/1/2008 4:43:54 PM): give me some ideas
 Abs K (2/1/2008 4:44:07 PM): lol
 Abs K (2/1/2008 4:44:17 PM): i dont no wat u want me to say
 djpr77 (2/1/2008 4:44:41 PM): well what have you thought about doing to one
 Abs K (2/1/2008 4:44:56 PM): huh?
 djpr77 (2/1/2008 4:45:24 PM): like if you saw it for real, what would you want to do to it
 Abs K (2/1/2008 4:45:24 PM): hey do u got a car
 djpr77 (2/1/2008 4:45:28 PM): yes
 Abs K (2/1/2008 4:45:40 PM): i never had sex before so i dont no wat to do with it
 djpr77 (2/1/2008 4:45:49 PM): no sex
 Abs K (2/1/2008 4:45:50 PM): wat kind
 Abs K (2/1/2008 4:45:56 PM): ?
 djpr77 (2/1/2008 4:45:56 PM): explorer
 djpr77 (2/1/2008 4:46:11 PM): we wont have sex
 Abs K (2/1/2008 4:46:14 PM): my dads got a black one
 Abs K (2/1/2008 4:46:18 PM): explorer
 Abs K (2/1/2008 4:46:23 PM): O OK
 Abs K (2/1/2008 4:46:39 PM): i thaght u wanted to have sex since u asked me bout ur penis pic
 Abs K (2/1/2008 4:46:54 PM): lol sorry im a dumbas
 djpr77 (2/1/2008 4:46:56 PM): no, i was wondering if you wanted to feel it
 Abs K (2/1/2008 4:47:15 PM): i gess if u want
 djpr77 (2/1/2008 4:47:32 PM): maybe kiss it
 Abs K (2/1/2008 4:47:39 PM): kiss ur penis???
 djpr77 (2/1/2008 4:47:43 PM): yes
 Abs K (2/1/2008 4:47:47 PM): lol ok
 Abs K (2/1/2008 4:47:54 PM): wat else
 djpr77 (2/1/2008 4:47:59 PM): suck on it
 Abs K (2/1/2008 4:48:07 PM): hmmm
 Abs K (2/1/2008 4:48:26 PM): were will we go

djpjr77 (2/1/2008 4:48:34 PM): in my car ✕
Abs K (2/1/2008 4:48:43 PM): do u got dark windows
Abs K (2/1/2008 4:48:52 PM): lol
djpjr77 (2/1/2008 4:49:09 PM): no
Abs K (2/1/2008 4:49:15 PM): lol
djpjr77 (2/1/2008 4:49:25 PM): how big are your tits ✕
Abs K (2/1/2008 4:49:42 PM): 32B
Abs K (2/1/2008 4:50:06 PM): i use to wwear A
Abs K (2/1/2008 4:50:11 PM): but now im a B
djpjr77 (2/1/2008 4:50:16 PM): nice
djpjr77 (2/1/2008 4:50:38 PM): do ur nipples get hard ✕
Abs K (2/1/2008 4:50:47 PM): lol when i get cold
djpjr77 (2/1/2008 4:50:59 PM): maybe I can suck on them ✕
Abs K (2/1/2008 4:51:06 PM): lol ok
djpjr77 (2/1/2008 4:51:36 PM): its so hard right now, wish you could see it ✕
Abs K (2/1/2008 4:51:55 PM): for real
Abs K (2/1/2008 4:51:59 PM): wat u mean hard
djpjr77 (2/1/2008 4:52:16 PM): like it was in the pic ✕
Abs K (2/1/2008 4:52:20 PM): OH
Abs K (2/1/2008 4:52:22 PM): DUH
Abs K (2/1/2008 4:52:23 PM): lol
djpjr77 (2/1/2008 4:52:25 PM): but bigger now ✕
Abs K (2/1/2008 4:52:30 PM): DANG
djpjr77 (2/1/2008 4:52:48 PM): do u have a ruler ✕
Abs K (2/1/2008 4:52:54 PM): lol yeah
djpjr77 (2/1/2008 4:53:07 PM): measure out 6 in, and thats how big ✕
Abs K (2/1/2008 4:53:14 PM): OMG
Abs K (2/1/2008 4:53:20 PM): ur huge
Abs K (2/1/2008 4:53:55 PM): hey i gotta run but will be on tomorow k
Abs K (2/1/2008 4:54:14 PM):
djpjr77 (2/1/2008 4:54:14 PM): k
Abs K (2/1/2008 4:54:20 PM): BYE

000000 (2/4/2008 1:30:11 PM): whats up

Abs K (2/5/2008 4:25:14 PM): suupp booo

djpjr77 (2/6/2008 3:32:23 PM): whats up
Abs K (2/6/2008 4:06:02 PM): were u at lol

djpjr77 (2/7/2008 8:25:33 AM): where you at, lol

djpjr77 (2/13/2008 3:46:48 PM): whats up abs

Abs K (2/14/2008 3:44:32 PM): hey
 djpr77 (2/14/2008 3:44:39 PM): whats up
 Abs K (2/14/2008 3:45:05 PM): not much
 djpr77 (2/14/2008 3:45:21 PM): what have you been up to
 Abs K (2/14/2008 3:45:34 PM): not much
 Abs K (2/14/2008 3:45:51 PM): trying to play some tennis n hang out at my freinds more
 Abs K (2/14/2008 3:45:56 PM): lol
 Abs K (2/14/2008 3:46:19 PM): u
 djpr77 (2/14/2008 3:46:28 PM): not much, bored
 Abs K (2/14/2008 3:46:32 PM): lol me 2
 Abs K (2/14/2008 3:46:47 PM): i dont no y im always bored on here n why i come back
 Abs K (2/14/2008 3:46:48 PM): lol
 djpr77 (2/14/2008 3:47:00 PM): I do to chat with you
 Abs K (2/14/2008 3:47:07 PM): i mean i like chattin w my freinds but it gets old
 Abs K (2/14/2008 3:47:16 PM): lol
 Abs K (2/14/2008 3:47:24 PM): hey hows ur doggy
 djpr77 (2/14/2008 3:47:46 PM): barking at some guy in the next yard, I'm about to shoot her
 Abs K (2/14/2008 3:47:54 PM): NOOOOOOOOOOOOOOOOOOO
 Abs K (2/14/2008 3:48:03 PM): lol
 djpr77 (2/14/2008 3:48:23 PM): I want to see you so bad
 Abs K (2/14/2008 3:48:29 PM): rely?
 djpr77 (2/14/2008 3:48:41 PM): yea
 Abs K (2/14/2008 3:48:43 PM): kool
 Abs K (2/14/2008 3:48:52 PM): u dont care i just turned 13
 djpr77 (2/14/2008 3:49:00 PM): me too
 Abs K (2/14/2008 3:49:08 PM): huh?
 djpr77 (2/14/2008 3:49:11 PM): jk
 Abs K (2/14/2008 3:49:14 PM): lol
 djpr77 (2/14/2008 3:49:59 PM): what are you doin now
 Abs K (2/14/2008 3:50:12 PM): nutin
 Abs K (2/14/2008 3:50:16 PM): wat u doin
 djpr77 (2/14/2008 3:50:19 PM): nutin
 Abs K (2/14/2008 3:50:24 PM):
 djpr77 (2/14/2008 3:50:30 PM): what ya wearin
 Abs K (2/14/2008 3:50:39 PM): jeans n a red tshirt
 djpr77 (2/14/2008 3:50:47 PM): bet you look hot in it
 Abs K (2/14/2008 3:50:50 PM): lol
 Abs K (2/14/2008 3:50:52 PM): i try
 djpr77 (2/14/2008 3:51:00 PM): I want to see
 Abs K (2/14/2008 3:51:03 PM): lol
 djpr77 (2/14/2008 3:52:20 PM): want to hang out for a little bit
 Abs K (2/14/2008 3:52:35 PM): kool when
 djpr77 (2/14/2008 3:52:42 PM): now
 Abs K (2/14/2008 3:52:46 PM): lol yea right
 Abs K (2/14/2008 3:52:51 PM): ur funny

djpr77 (2/14/2008 3:52:57 PM): just for a little bit
 Abs K (2/14/2008 3:53:19 PM): wht u wanna fo
 Abs K (2/14/2008 3:53:21 PM): do
 djpr77 (2/14/2008 3:53:27 PM): see you
 Abs K (2/14/2008 3:53:58 PM): i no that silly
 Abs K (2/14/2008 3:53:59 PM): lol
 djpr77 (2/14/2008 3:54:36 PM): where do u want to meet
 Abs K (2/14/2008 3:54:43 PM): idk
 Abs K (2/14/2008 3:54:50 PM): were we goin
 djpr77 (2/14/2008 3:55:02 PM): no where just meet up for a bit
 Abs K (2/14/2008 3:55:24 PM): i dont wanna get in troubel
 Abs K (2/14/2008 3:55:27 PM): ok
 djpr77 (2/14/2008 3:55:37 PM): me either
 Abs K (2/14/2008 3:56:50 PM): maybe tomorow or later
 djpr77 (2/14/2008 3:56:58 PM): cmon, please
 Abs K (2/14/2008 3:57:06 PM): i dont no u im acred
 Abs K (2/14/2008 3:57:09 PM): scared
 djpr77 (2/14/2008 3:57:18 PM): we wont go anywhere
 djpr77 (2/14/2008 3:58:15 PM):
 Abs K (2/14/2008 3:58:30 PM):
 djpr77 (2/14/2008 3:59:04 PM): well
 Abs K (2/14/2008 3:59:30 PM): i cant today
 djpr77 (2/14/2008 3:59:35 PM): why not
 Abs K (2/14/2008 4:00:23 PM): my neighbor is watchin me for my mom n if i leave my
 house shell see me
 Abs K (2/14/2008 4:00:31 PM): i cant today but maybe later
 djpr77 (2/14/2008 4:00:35 PM): when
 Abs K (2/14/2008 4:01:16 PM): one day when my moms wurkin late
 djpr77 (2/14/2008 4:01:46 PM): your neighbor wont care if you go for a bike ride and
 meet me
 Abs K (2/14/2008 4:02:11 PM): not if i tell my mom im gonna go see my freinds around
 the corner
 djpr77 (2/14/2008 4:02:38 PM): ok
 Abs K (2/14/2008 4:02:54 PM): dont be mad
 djpr77 (2/14/2008 4:03:14 PM): Im not, I just want to see you
 Abs K (2/14/2008 4:03:15 PM): i dont even no wat u look like LOL
 Abs K (2/14/2008 4:03:23 PM): how will i no its u
 djpr77 (2/14/2008 4:03:34 PM): I'll say hello silly
 Abs K (2/14/2008 4:03:37 PM): lol
 djpr77 (2/14/2008 4:04:56 PM): just for a little bit
 Abs K (2/14/2008 4:05:06 PM): will u bring me back
 Abs K (2/14/2008 4:05:20 PM): not a kidnaper or nothin right
 djpr77 (2/14/2008 4:05:24 PM): no
 Abs K (2/14/2008 4:05:28 PM): k
 Abs K (2/14/2008 4:05:32 PM): im ijus scared
 djpr77 (2/14/2008 4:05:43 PM): me too

Abs K (2/14/2008 4:18:56 PM): told u im scared n i cant today
 djpr77 (2/14/2008 4:18:57 PM): sorry
 djpr77 (2/14/2008 4:19:25 PM): want another pic
 Abs K (2/14/2008 4:19:29 PM): lol
 Abs K (2/14/2008 4:19:35 PM): up to u
 djpr77 (2/14/2008 4:19:55 PM): let me get it hard for you, damn I wish I could see you right now
 Abs K (2/14/2008 4:20:01 PM): lol
 Abs K (2/14/2008 4:20:19 PM): thaught u wanted 2 jus hang out
 Abs K (2/14/2008 4:20:20 PM): lol
 djpr77 (2/14/2008 4:20:31 PM): i do
 Abs K (2/14/2008 4:20:36 PM): lol
 Abs K (2/14/2008 4:20:41 PM): i hear ya
 djpr77 (2/14/2008 4:21:37 PM): what are you wearing underneathe
 Abs K (2/14/2008 4:21:49 PM): hot pink panties
 djpr77 (2/14/2008 4:21:54 PM): really
 Abs K (2/14/2008 4:21:57 PM): yes y
 djpr77 (2/14/2008 4:22:01 PM): omg
 Abs K (2/14/2008 4:22:39 PM): wat
 djpr77 (2/14/2008 4:23:03 PM): that sounds so hot
 Abs K (2/14/2008 4:23:11 PM): ty
 djpr77 (2/14/2008 4:23:36 PM): I bet your little ass looks so good in them
 Abs K (2/14/2008 4:23:42 PM): i try
 Abs K (2/14/2008 4:24:02 PM): is it ok
 Abs K (2/14/2008 4:24:18 PM): wish i had pics for u
 Abs K (2/14/2008 4:24:36 PM): OMG
 djpr77 (2/14/2008 4:24:51 PM): what
 Abs K (2/14/2008 4:25:03 PM): oh my god
 Abs K (2/14/2008 4:25:23 PM): jus gettin use to wat they look like
 djpr77 (2/14/2008 4:25:41 PM): lol
 djpr77 (2/14/2008 4:26:37 PM): do u have hair
 Abs K (2/14/2008 4:26:42 PM): sum fuz
 Abs K (2/14/2008 4:27:01 PM): u seem rely kool
 djpr77 (2/14/2008 4:27:04 PM): ty
 djpr77 (2/14/2008 4:27:51 PM): I would love to kiss on your nipples
 Abs K (2/14/2008 4:27:57 PM): ooh
 Abs K (2/14/2008 4:28:01 PM): hmmm
 Abs K (2/14/2008 4:29:47 PM): u ok
 Abs K (2/14/2008 4:31:01 PM): u rely serius bout meetin me r jus jokin?

* ~~INDETERMINATE~~ CRIMINAL
ARRANGEMENTS SOLICITATION

13 years
old

of
minor

djpjr77 (2/15/2008 12:01:39 PM): hey there
Abs K (2/15/2008 2:22:23 PM): hey u
djpjr77 (2/15/2008 3:27:15 PM): whats up
Abs K (2/15/2008 3:27:19 PM): hey
djpjr77 (2/15/2008 3:27:26 PM): hey
Abs K (2/15/2008 3:28:00 PM): watcha doin
djpjr77 (2/15/2008 3:28:08 PM): not much, what about you
Abs K (2/15/2008 3:28:16 PM): nuttin
Abs K (2/15/2008 3:28:29 PM): Hey my moms working late next week
djpjr77 (2/15/2008 3:28:38 PM): cool, what about today
Abs K (2/15/2008 3:28:49 PM): shes comin home at 4 today
Abs K (2/15/2008 3:28:55 PM): and is here all weekend
djpjr77 (2/15/2008 3:29:11 PM): I was hoping to see u today *
Abs K (2/15/2008 3:29:17 PM): she works at the hospital so shes there alot
djpjr77 (2/15/2008 3:29:49 PM): I couldnt stop thinking about you in those pink panties *
all day
Abs K (2/15/2008 3:29:55 PM): lol
Abs K (2/15/2008 3:30:03 PM): i thaught bout u all day 2
Abs K (2/15/2008 3:30:10 PM): u seem rely kool
djpjr77 (2/15/2008 3:30:19 PM): what were you thinking about
Abs K (2/15/2008 3:30:28 PM): wat all we talked bout
Abs K (2/15/2008 3:30:31 PM): yesterday
Abs K (2/15/2008 3:30:36 PM): bout meetin n stuff
djpjr77 (2/15/2008 3:30:44 PM): cool
djpjr77 (2/15/2008 3:31:36 PM): what are you doing now
Abs K (2/15/2008 3:31:53 PM): just chattin
Abs K (2/15/2008 3:31:54 PM): u
djpjr77 (2/15/2008 3:31:59 PM): nuttin
Abs K (2/15/2008 3:32:00 PM): lol
djpjr77 (2/15/2008 3:32:30 PM): so what do you think about when you think of me
Abs K (2/15/2008 3:32:41 PM): wonder wat u look like
djpjr77 (2/15/2008 3:33:04 PM): what else
Abs K (2/15/2008 3:33:18 PM): jus wat it will be like
Abs K (2/15/2008 3:33:22 PM): when i see u
Abs K (2/15/2008 3:33:32 PM): i get butterflies
Abs K (2/15/2008 3:33:35 PM): thinkin botu it
djpjr77 (2/15/2008 3:33:37 PM): lol
Abs K (2/15/2008 3:34:31 PM): lol
djpjr77 (2/15/2008 3:35:08 PM): do you think about naughty things?
Abs K (2/15/2008 3:35:51 PM): no
Abs K (2/15/2008 3:35:53 PM): lol
Abs K (2/15/2008 3:35:55 PM): u
djpjr77 (2/15/2008 3:36:08 PM): no
Abs K (2/15/2008 3:36:32 PM): lol
Abs K (2/15/2008 3:37:01 PM): hey i gotta go k
Abs K (2/15/2008 3:37:06 PM): moms comin home soon

djpr77 (2/15/2008 3:37:50 PM): not yet
 djpr77 (2/15/2008 3:37:56 PM): tell me what your wearin
 Abs K (2/15/2008 3:37:57 PM): y
 Abs K (2/15/2008 3:38:05 PM): black shirt jeans
 djpr77 (2/15/2008 3:38:13 PM): panites?
 Abs K (2/15/2008 3:38:16 PM): blue
 Abs K (2/15/2008 3:38:17 PM): lol
 djpr77 (2/15/2008 3:38:26 PM):
 Abs K (2/15/2008 3:38:37 PM): lol
 Abs K (2/15/2008 3:38:44 PM):
 djpr77 (2/15/2008 3:38:54 PM):
 Abs K (2/15/2008 3:39:06 PM):
 djpr77 (2/15/2008 3:39:11 PM): I wish you could see it right now ✕
 Abs K (2/15/2008 3:39:14 PM): lol
 Abs K (2/15/2008 3:39:15 PM): i no
 Abs K (2/15/2008 3:39:32 PM): not today
 djpr77 (2/15/2008 3:39:45 PM): do u think about it ✕
 Abs K (2/15/2008 3:40:03 PM): meetin u ✕
 Abs K (2/15/2008 3:40:05 PM): yea
 djpr77 (2/15/2008 3:40:13 PM): and it
 Abs K (2/15/2008 3:40:19 PM): ?
 djpr77 (2/15/2008 3:40:37 PM): the thing in the pic ✕
 Abs K (2/15/2008 3:40:50 PM): o ur penis pic >
 Abs K (2/15/2008 3:40:52 PM): lol
 Abs K (2/15/2008 3:40:55 PM): yea i think bout it
 Abs K (2/15/2008 3:40:57 PM): lol
 djpr77 (2/15/2008 3:41:02 PM): what do u think about
 Abs K (2/15/2008 3:41:11 PM): its wild
 djpr77 (2/15/2008 3:41:23 PM): in what way
 Abs K (2/15/2008 3:41:42 PM): just never rely seen one in a pic like that
 djpr77 (2/15/2008 3:42:07 PM): like what
 Abs K (2/15/2008 3:42:15 PM): big n all
 djpr77 (2/15/2008 3:42:20 PM): lol
 Abs K (2/15/2008 3:42:24 PM): wat
 Abs K (2/15/2008 3:42:25 PM): lol
 Abs K (2/15/2008 3:42:34 PM): hey wats ur name
 djpr77 (2/15/2008 3:42:36 PM): what do you think when you see it ✕
 Abs K (2/15/2008 3:42:44 PM): think ill die
 Abs K (2/15/2008 3:42:46 PM): lol
 djpr77 (2/15/2008 3:42:48 PM): why
 Abs K (2/15/2008 3:42:55 PM): Im Abbey
 djpr77 (2/15/2008 3:43:02 PM): John ✕
 Abs K (2/15/2008 3:43:07 PM): kool
 djpr77 (2/15/2008 3:43:18 PM): what do u mean think you'll die
 Abs K (2/15/2008 3:43:31 PM): jus never done anything like this
 djpr77 (2/15/2008 3:43:39 PM): lol

Abs K (2/15/2008 3:43:41 PM): lol
Abs K (2/15/2008 3:43:46 PM): sorry im a doofus
djpjr77 (2/15/2008 3:43:51 PM): me too
Abs K (2/15/2008 3:43:55 PM): no
djpjr77 (2/15/2008 3:44:16 PM): think you will want to touch it ✕
Abs K (2/15/2008 3:44:22 PM): if u wanna
djpjr77 (2/15/2008 3:44:42 PM): what do u want
Abs K (2/15/2008 3:44:48 PM): ?
djpjr77 (2/15/2008 3:45:03 PM): what would you want to do with it
Abs K (2/15/2008 3:45:21 PM): well silly im a virgin i dont no wat to do with it
Abs K (2/15/2008 3:45:26 PM): i ges hold it
Abs K (2/15/2008 3:45:28 PM): kiss it
djpjr77 (2/15/2008 3:45:52 PM): think you can fit it all in your mouth ✕
Abs K (2/15/2008 3:45:59 PM): lol dunno
djpjr77 (2/15/2008 3:46:34 PM): i wish you could send me a pic I want to see u
Abs K (2/15/2008 3:46:42 PM): i no
Abs K (2/15/2008 3:47:01 PM): i look jus like Hanna Montana
Abs K (2/15/2008 3:47:06 PM): lol I WISH
Abs K (2/15/2008 3:47:17 PM): wish i had ur pic
djpjr77 (2/15/2008 3:47:19 PM): who do u look like
Abs K (2/15/2008 3:47:24 PM): brown hair
Abs K (2/15/2008 3:47:27 PM): green eyes
djpjr77 (2/15/2008 3:47:48 PM): have you ever been told you look like someone famous
Abs K (2/15/2008 3:48:01 PM): yea
djpjr77 (2/15/2008 3:48:07 PM): who
Abs K (2/15/2008 3:48:20 PM): jennifer love huwitt
djpjr77 (2/15/2008 3:48:27 PM): really?
Abs K (2/15/2008 3:48:30 PM): kinda
Abs K (2/15/2008 3:48:34 PM): who u look like
djpjr77 (2/15/2008 3:48:36 PM): wow, you must be hot
Abs K (2/15/2008 3:48:44 PM): nooo
djpjr77 (2/15/2008 3:49:01 PM): wish your boobs were as big as hers, that would be fun
Abs K (2/15/2008 3:49:10 PM): i got 32B
djpjr77 (2/15/2008 3:49:31 PM): cant wait to suck on them ✕
Abs K (2/15/2008 3:49:37 PM): lol
djpjr77 (2/15/2008 3:49:52 PM): do you ever play with yourself ✕
Abs K (2/15/2008 3:49:55 PM): no
Abs K (2/15/2008 3:51:35 PM): gotta go ok
Abs K (2/15/2008 3:51:38 PM): BE GOOD
djpjr77 (2/15/2008 3:51:40 PM): ok
Abs K (2/15/2008 3:51:43 PM):
djpjr77 (2/15/2008 3:51:59 PM): somehow get a pic of yourself to send me babe ✕

djpr77 (2/16/2008 10:38:15 AM): hey abs

Abs K (2/18/2008 3:33:58 PM): Hey how ya doin
djpjr77 (2/18/2008 4:13:24 PM): hey how are you
djpjr77 (2/18/2008 5:13:04 PM): hey
djpjr77 (2/18/2008 5:14:54 PM):
djpjr77 (2/18/2008 5:16:31 PM): where are you
djpjr77 (2/18/2008 5:17:40 PM):
djpjr77 (2/18/2008 5:37:23 PM):

13-12-04
UC

MEETING
Arrangement

THURSDAY
Feb 22

djpjr77 (2/19/2008 3:17:17 PM): whats up
djpjr77 (2/19/2008 4:00:39 PM): :((
djpjr77 (2/19/2008 4:38:39 PM): what ya doing
Abs K (2/19/2008 6:49:35 PM): BOOOOOOOOOOOOOOOOOOO
djpjr77 (2/19/2008 6:49:42 PM): whats up
Abs K (2/19/2008 6:49:55 PM): chillin its soooo cold
Abs K (2/19/2008 6:49:58 PM): lol
djpjr77 (2/19/2008 6:50:18 PM): I know, where have you been
Abs K (2/19/2008 6:50:29 PM): hangin out with my freind Katie
djpjr77 (2/19/2008 6:50:36 PM): cool
Abs K (2/19/2008 6:50:38 PM): watcha been doin
djpjr77 (2/19/2008 6:50:52 PM): was hoping to meet up with ya ✕
Abs K (2/19/2008 6:50:57 PM): yea me 2
Abs K (2/19/2008 6:50:59 PM): when
djpjr77 (2/19/2008 6:51:23 PM): today ✕
Abs K (2/19/2008 6:51:32 PM): my moms workin late tomorrow nite
djpjr77 (2/19/2008 6:51:44 PM): till when
Abs K (2/19/2008 6:51:52 PM): like 7 or 8
Abs K (2/19/2008 6:52:12 PM): we can meet like around 5 or sumthang if u wanna
djpjr77 (2/19/2008 6:52:26 PM): ok, when is she coming home tonight
Abs K (2/19/2008 6:52:31 PM): 730
djpjr77 (2/19/2008 6:52:44 PM):
Abs K (2/19/2008 6:52:47 PM): u rely wanna meet me?
djpjr77 (2/19/2008 6:52:55 PM): lol, yea why ✕
Abs K (2/19/2008 6:53:05 PM): not sure if ur jus messin w me
Abs K (2/19/2008 6:53:07 PM): lol
djpjr77 (2/19/2008 6:53:18 PM): wish I could see ya now ✕
Abs K (2/19/2008 6:53:25 PM): lol
djpjr77 (2/19/2008 6:56:26 PM): so what cha doin
Abs K (2/19/2008 6:56:41 PM): i can sneak out tonight if u want
djpjr77 (2/19/2008 6:56:48 PM): when
Abs K (2/19/2008 6:56:58 PM): like 2 hrs i gess
djpjr77 (2/19/2008 6:57:11 PM): when will she be home
Abs K (2/19/2008 6:57:16 PM): 730
djpjr77 (2/19/2008 6:57:25 PM): how will you sneak out
Abs K (2/19/2008 6:57:59 PM): tell her i gotta go down the street to Emilys house
Abs K (2/19/2008 6:58:26 PM): help me w my hwork or sumthang
djpjr77 (2/19/2008 6:58:40 PM): what if she called
Abs K (2/19/2008 6:58:50 PM): idk
djpjr77 (2/19/2008 6:59:05 PM):
Abs K (2/19/2008 6:59:34 PM):
djpjr77 (2/19/2008 7:00:42 PM): wish she was working later
Abs K (2/19/2008 7:01:32 PM): yea
djpjr77 (2/19/2008 7:01:44 PM): what cha wearin today
Abs K (2/19/2008 7:02:29 PM): jeans purple
Abs K (2/19/2008 7:02:33 PM): shirt

djpjr77 (2/19/2008 7:02:51 PM): under
Abs K (2/19/2008 7:03:22 PM): white pink undies
djpjr77 (2/19/2008 7:03:47 PM):
Abs K (2/19/2008 7:04:07 PM): lol
djpjr77 (2/19/2008 7:04:58 PM): I want to see lol
Abs K (2/19/2008 7:05:07 PM): lol
djpjr77 (2/19/2008 7:06:13 PM): when will u be home tomorrow
Abs K (2/19/2008 7:06:33 PM): like 4 pr 5
Abs K (2/19/2008 7:06:35 PM): u
djpjr77 (2/19/2008 7:06:48 PM): ok
djpjr77 (2/19/2008 7:06:52 PM): same
Abs K (2/19/2008 7:06:57 PM): kool
djpjr77 (2/19/2008 7:12:14 PM): have you told anyone about me yet
Abs K (2/19/2008 7:13:43 PM): NO
Abs K (2/19/2008 7:13:45 PM): U
djpjr77 (2/19/2008 7:13:52 PM): yes everyone, lol
Abs K (2/19/2008 7:13:57 PM): OMG
djpjr77 (2/19/2008 7:14:04 PM): what
Abs K (2/19/2008 7:14:51 PM): lol U BETTER NOT TELL
djpjr77 (2/19/2008 7:14:56 PM): lol
djpjr77 (2/19/2008 7:16:24 PM): I'm chilly, wish u could warm me up
Abs K (2/19/2008 7:17:08 PM): lol sorry
Abs K (2/19/2008 7:18:06 PM):
djpjr77 (2/19/2008 7:18:36 PM):
Abs K (2/19/2008 7:21:09 PM): nite nite moms home
djpjr77 (2/19/2008 7:21:19 PM): ok, see u later aligator

djpr77 (2/20/2008 5:05:46 PM):

djpr77 (2/22/2008 4:44:32 PM): where ya been?
 Abs K (2/22/2008 4:44:42 PM):
 HEYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYYY
 YYYYYYYYYy
 djpr77 (2/22/2008 4:44:49 PM): whats up
 Abs K (2/22/2008 4:44:57 PM): my moms been here she had a cold
 Abs K (2/22/2008 4:45:04 PM): watcha doin
 djpr77 (2/22/2008 4:45:14 PM): nothin
 djpr77 (2/22/2008 4:45:50 PM): what are you doing
 Abs K (2/22/2008 4:46:00 PM): trying to stay war,
 Abs K (2/22/2008 4:46:02 PM): warm
 djpr77 (2/22/2008 4:46:10 PM): are you alone
 Abs K (2/22/2008 4:46:16 PM): umm yea
 Abs K (2/22/2008 4:46:17 PM): lol
 djpr77 (2/22/2008 4:46:26 PM): wheres your mom
 Abs K (2/22/2008 4:46:28 PM): till 7
 Abs K (2/22/2008 4:46:30 PM): work
 djpr77 (2/22/2008 4:46:43 PM): want to meet up
 Abs K (2/22/2008 4:46:48 PM): hmmm
 djpr77 (2/22/2008 4:48:18 PM): guess not
 Abs K (2/22/2008 4:48:20 PM): wat time
 djpr77 (2/22/2008 4:48:28 PM): now
 Abs K (2/22/2008 4:48:34 PM): u aint no ceral rappist are ya
 djpr77 (2/22/2008 4:48:42 PM): lol, no are you
 Abs K (2/22/2008 4:48:45 PM): LOL
 Abs K (2/22/2008 4:48:46 PM): no
 Abs K (2/22/2008 4:48:49 PM): silly
 Abs K (2/22/2008 4:48:58 PM): im jus scared u want bring me back
 djpr77 (2/22/2008 4:49:27 PM): well if you're not comfortable then dont worry about it
 Abs K (2/22/2008 4:49:36 PM): idk
 Abs K (2/22/2008 4:49:54 PM): i jus dont want my mom to no
 djpr77 (2/22/2008 4:50:01 PM): me either
 Abs K (2/22/2008 4:50:04 PM): lol
 Abs K (2/22/2008 4:50:38 PM): did u have a good day
 djpr77 (2/22/2008 4:50:45 PM): yes
 Abs K (2/22/2008 4:50:47 PM): it sux here
 Abs K (2/22/2008 4:50:52 PM): cold n wet
 djpr77 (2/22/2008 4:50:57 PM): yea
 Abs K (2/22/2008 4:51:48 PM): u mad at me?
 djpr77 (2/22/2008 4:51:57 PM): no of course not
 Abs K (2/22/2008 4:52:00 PM): o ok good
 djpr77 (2/22/2008 4:52:43 PM): so what do u think
 Abs K (2/22/2008 4:52:53 PM):
 Abs K (2/22/2008 4:53:05 PM): i think ?
 djpr77 (2/22/2008 4:53:34 PM): yes
 Abs K (2/22/2008 4:53:41 PM): about meeting?

Abs K (2/22/2008 5:02:39 PM): im smelly
djpjr77 (2/22/2008 5:02:40 PM): ok hurry up
Abs K (2/22/2008 5:02:45 PM): 615 OK
djpjr77 (2/22/2008 5:02:48 PM): ok
Abs K (2/22/2008 5:02:55 PM): do u no where skatin rink is
djpjr77 (2/22/2008 5:03:02 PM): Ill find it
Abs K (2/22/2008 5:03:08 PM): next to barn yard
djpjr77 (2/22/2008 5:03:12 PM): oOk
Abs K (2/22/2008 5:03:16 PM): kool
Abs K (2/22/2008 5:03:23 PM): 615 or 630
djpjr77 (2/22/2008 5:03:25 PM): see ya then
Abs K (2/22/2008 5:03:26 PM): wait for me
djpjr77 (2/22/2008 5:03:29 PM): ok
djpjr77 (2/22/2008 5:03:34 PM): later

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case No.: 2016-CP-40-06960

Dennis J. Powell, Jr.,)
Plaintiff,)
v.)
Mark Keel, Chief,)
State Law Enforcement Division, and)
The State of South Carolina,)
Defendant.)

AFFIDAVIT

Date: October 17, 2018 County: Richland

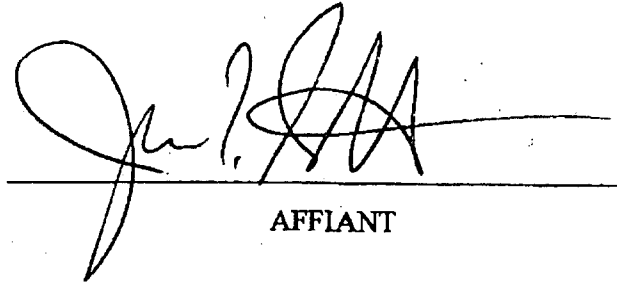
PERSONALLY came and appeared before me, the undersigned Notary, the within named James Stewart, who is employed by the Richland County Sheriff's Department of Richland County, State of South Carolina, and makes that his/her statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of his/her knowledge:

1. My name is Major James Stewart and I am employed by the Richland County Sheriff's Department. In this capacity, I am uniquely qualified to provide the following statements:
2. Dennis Powell, Jr. plead guilty to Criminal Solicitation of a Minor in violation of S.C. Code Ann. §16-15-342 and was sentenced on February 9, 2010.
3. Dennis Powell, Jr.'s conviction mandates lifetime registration as sex offender pursuant to S.C. Code Ann. § 23-3-400 et al. Accordingly, Mr. Powell must register bi-annually as a sex offender in South Carolina with the Richland County Sheriff's Office.
5. The obligations of a bi-annual registration sex offender are applied to Mr. Powell uniformly as they are to all sex offenders with this classification. Mr. Powell is required to report in person twice a year to fulfill his lawful obligations. This consists of taking a current photograph, providing accurate and up to date records regarding his employment status, place of residence, vehicle information, and updating other statutorily required information.
6. Dennis Powell, Jr. is not and has never been subject to residency or work restrictions based upon his lawful status as a sex offender. Further, Mr. Powell is not subject to any other

restrictions, including, but not limited to, internet usage, community involvement, or any prohibitions related to where he may go or with whom he may lawfully interact.

7. Every sex offender in South Carolina is required to review and fill out a form stating that the person acknowledges the conditions of being a sex offender when they present themselves in person to the Sheriff's office. Mr. Powell has consistently done this twice a year since 2010.

FURTHER AFFIANT SAYETH NOT

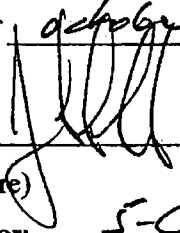


AFFIANT

10/22/2018
DATE

Subscribed and sworn to before me

this 22 day of October 2018



(Notary Signature)

Notary Public For: 5-C.

My Commission Expires: 2-9-20

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case No.: 2016-CP-40-06960

Dennis J. Powell, Jr.,)
Plaintiff,)
v.)
Mark Keel, Chief,)
State Law Enforcement Division, and)
The State of South Carolina,)
Defendants.)

**AFFIDAVIT OF SLED MAJOR
JENNIE TEMPLE**

PERSONALLY APPEARED BEFORE ME, Jennie Temple, who, being duly sworn,
states as follows:

1. My name is Jennie Temple and I am employed by SLED as the Major of the Criminal Justice Information Services (CJIS) Division at SLED, which is the division that operates and maintains the South Carolina Sex Offender Registry (Registry). In this capacity, I am uniquely qualified to provide the following statements:
2. South Carolina law mandates that the Registry be "open to public inspection" and authorizes SLED to make the determination of the forms needed to accomplish this mandate. In that regard, SLED has determined that publicly accessible online registration on the internet is the appropriate form for public inspection and began publishing the Registry on the internet on November 22, 1999 and has continuously done so since that date. SLED believes that its website and the laws prohibiting unauthorized use provide an adequate level of security for this information.
3. The South Carolina Legislature specifically authorized the use of electronic means to accomplish the publication in 1998 by amending S.C. Code Ann. § 23-3-490 to specifically include paragraph (E), which states that for the purpose of public notification, the "use of computerized or electronic transmission of data or other electronic or similar means is permitted." Based on the timing, it appears that this provision was enacted specifically to authorize online internet publication of Registry information.

4. SLED's website contains an "Offenses" heading wherein SLED provides the state where the offense was committed, the citation to the appropriate statute that was violated, the name of the crime committed, and the date of conviction.
5. In addition, the federal Sex Offender Registration and Notification Act (SORNA) mandates online internet public access to sex offender information.
6. Dennis Powell, Jr. plead guilty to Criminal Solicitation of a Minor in violation of S.C. Code Ann. § 16-15-342 in 2008. Dennis Powell, Jr.'s conviction mandates lifetime registration as a sex offender pursuant to S.C. Code Ann. § 23-3-400 *et al.* Accordingly, Mr. Powell must register bi-annually as a sex offender in South Carolina for life.
7. All persons required to register in South Carolina, including Mr. Powell, are treated the same according to their sex offender classification. As such, Mr. Powell is treated the same and is subject to the same uniform administrative and legal procedures as all similarly situated South Carolina sex offenders.
8. Based on Mr. Powell's classification, he does not have any restrictions on where he lives or where he works.
9. SLED's criminal justice records do not indicate that Mr. Powell is at any greater risk for assaults, burglary, vandalism, or other crimes, as a result of online publication of his information on the Registry.
10. The South Carolina Sex Offender Registry, which includes Mr. Powell's information, provides law enforcement the tools and information needed in investigating criminal offenses and law enforcement uses Registry information in that regard on a daily basis.
11. The South Carolina Sex Offender Registry also provides the public with vital information about certain offenders and their past conduct, which protects the public at large and provides information from which the public can make a host of informed decisions.
12. The purpose and the principal effect of South Carolina's online notification system is to inform the public for its own safety, not to humiliate any of the registered offenders.
13. Widespread public access is necessary for the efficacy of South Carolina's notification scheme.
14. SLED's Registry website does not provide the public with means to shame any offender nor does it allow for the posting of comments on offender pages.

15. An individual seeking the Registry information must take the initial step of going to the SLED or a Sheriff's Department's Web site, proceed to the sex offender registry, and then look up the desired information.

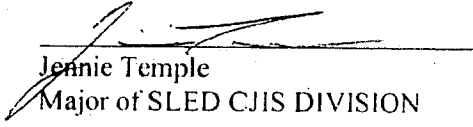
16. The process to access this information is analogous to an individual using either SLED CATCH or the public index to search for criminal records.

17. The use of the Internet for request forms and dissemination makes the document search more efficient, cost effective, and more convenient for both South Carolina's law enforcement community and for South Carolina's citizenry.

18. SLED does not use social media to disseminate Sex Offender Registry information.

19. SLED has determined that the current level of security is the appropriate level of security for Sex Offender Registry information.

FURTHER AFFIANT SAYETH NOT.


Jennie Temple
Major of SLED CJIS DIVISION

Subscribed and sworn to before me
this 24th day of November 2018.

Delmar L. Matthews

Notary Public For: South Carolina

My Commission Expires: My Commission Expires June 23, 2025

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STATE OF SOUTH CAROLINA	)	
<u>COUNTY OF RICHLAND</u>	)	COURT OF COMMON PLEAS
		2016-CP-40-6960
Dennis Powell,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Mark Keel,	)	
	)	
<u>Defendant.</u>	)	

December 6, 2017
Columbia, South Carolina

B E F O R E:
THE HONORABLE G. THOMAS COOPER, JUDGE.

A P P E A R A N C E S:
JONATHAN E. OZMINT, ESQ.
Attorney for the Plaintiff
ADAM L. WHITSETT, ESQ.
HARLEY L. KIRKLAND, ESQ.
PAUL T. AHEARN, III, ESQ.
Attorneys for the Defendant

DEBORAH M. McCURDY, RPR
Official Court Reporter

1 the statute for your use, and I will cite those
2 sections in my argument so that opposing counsel
3 can find them as well.

4 MR. OZMINT: We're not going to ask you -- we
5 do take issue that this statute that spans so many
6 pages is unambiguous. It is ambiguous. And we
7 believe that our argument today will show you where
8 it is ambiguous in a way that our Courts -- and
9 this is what is most important, Judge -- I am not
10 going to ask -- we are not going to ask you to
11 disregard the law of the State of South Carolina as
12 decided by our Supreme Court. Mr. Powell never had
13 his day in court, and he had never taken a look at
14 this statute and how this statute is implemented
15 until today.

16 And if what Mr. Whitsett were saying is really
17 true, which is once the Supreme Court, the highest
18 court in any jurisdiction, rules in a particular
19 case that a statute is constitutional, then no
20 statute would ever be invalidated in whole or in
21 part after such first ruling. But that is exactly
22 the role of Courts.

23 As he stated in his brief, the purpose -- one
24 of the roles of this Court, of the judicial branch,
25 is to look for the intent and the purpose -- I'm

1 quoting his brief -- the legislative intent and
2 purpose of any statute and determine its needs.

3 So what we are going to ask you to do today is
4 to not ignore precedent. We are going to ask you
5 to hear our challenge to this statute, which is not
6 a challenge that has ever been made or addressed by
7 any other court in our state, not just because --
8 and this is important -- not just because it has to
9 do with the facts of Mr. Powell's case, who never
10 got out of his vehicle, if you recall, he was
11 driving away when they pulled him, he had changed
12 his mind. That is not the only reason. That is
13 certainly one of the reasons that this case has
14 never been heard, because he has never been heard.
15 But the other reason that our case has never been
16 heard is because our arguments that I'm about to
17 make to you about this statute have never been
18 raised in any case that Mr. Whitsett has cited.

19 Mr. Whitsett says the law is clear about
20 registration. And, Judge, I almost agree with
21 that. Our statute is not clear with regard to much
22 of what it addresses, but with regard to
23 registration and the purpose of the statute, why --
24 I know Justice Few. We all know the members of our
25 Court. This is what they said about the statute:

1 The intent is to promote the state's fundamental
2 right to provide for the public health, welfare,
3 and safety of its citizens. I'm quoting from the
4 In Re Justin B., the 2017 case. And this is a
5 quote from the statute itself: The registry will
6 provide -- who? -- law enforcement with the tools
7 needed in investigating criminal offenses.

8 Although their statistical evidence is not true,
9 this is what the legislature was relying on way
10 back when they passed this statute. Statistics
11 show that sex offenders often pose a high risk of
12 reoffending. Well, so do other -- often other
13 offenders show a high risk of reoffending, just
14 like some sex offenders often show a low risk of
15 reoffending. One thing is perfectly clear,
16 Mr. Powell shows no risk of reoffending.

17 Additionally, law enforcement's efforts to
18 protect communities, conduct investigations, and
19 apprehend offenders are impaired by the lack of
20 information about these offenders who live within
21 the law enforcement agency's jurisdiction.

22 Now, Judge, it is very important to remember,
23 one thing that Mr. Whitsett did fail to point out,
24 that in every one of our State Supreme Court cases
25 on this issue, every single one of them, they rely

1 on the legislative intent. They presume that the
2 statute in its language and its execution is
3 consistent with that legislative intent.

4 Our argument to you today is novel in both the
5 language of the statute, but especially in the
6 execution by the statute of the executive branch --
7 by the executive branch -- they have not followed
8 that intent. They have not followed the clear
9 language of the statute with regard to the
10 publication of the sex offender registry.

11 Here is what it came down to, Judge. Five
12 reasonable people looked at this and said, You
13 know, this is what the legislature said and we kind
14 of have to assume that what they did is what they
15 said, and there have been two, three, four, or five
16 challenges to that. But nobody -- it seems to me
17 that -- and why does this bother me? Why does it
18 bother me that a guy has to register for life? Why
19 is that wrong? There is something wrong here. And
20 it is not just that he has to register for life. I
21 kept looking at the statute and looking at the
22 statute, and I found what is wrong. I finally
23 found what -- I may have found what is wrong. I
24 found why reasonable people look at this and have
25 heartburn.

1 Here is the reality, Judge. If you sentenced
2 Mr. Powell -- if you had sentenced him or any other
3 sex offender in my prison back when I was running
4 the DOC, and when he walked in the door I had
5 publicized him and every other, back then, 100
6 offenders who entered my system that day, I had
7 selectively publicized only the sex offenders, you
8 would have had every right, or Judge Norton, or
9 Judge Anderson, to pull me into court. You not
10 only would have run me up the flag pole for
11 inviting retribution against those guys, I might
12 have been charged for it.

13 We're not making any of the arguments that
14 were made with Justin B. or any of these other
15 cases. I want you to understand that. We're
16 making a constitutional argument that this statute
17 is ambiguous on its face as applies to everyone.
18 And, secondly, that as this statute is being
19 executed, SLED is not following the statute. I
20 want to be specific about that.

21 In my brief -- in our brief we cite a Sixth
22 Circuit case. It is important to note, Judge, it
23 is called Doe v. Snyder. It was a challenge to the
24 Michigan Sex Registry Law. Doe v. Snyder took
25 place after our Supreme Court Justin B. 2017 case.

1 Here is what has happened to our -- let's just
2 assume for a minute -- and it is, it is fair to
3 assume what the legislature said it intended, it
4 intended. I personally believe there were many
5 members of the legislature that wanted this to be
6 punitive. But let's assume that cooler heads
7 prevailed. Certainly that is why we have a purpose
8 statement in the statute in a state where we almost
9 never had a purpose statement. They were trying to
10 save the statute. They were trying to make sure
11 that you and every other judge that would ever look
12 at it knew, Hey, our intent is not to be punitive,
13 even though this might look punitive.

14 The Michigan Court, the Federal Court in the
15 Michigan case, in the Doe v. Snyder case, was
16 looking at same thing. This is a quote, and I
17 think we put it in our brief. I'm going to
18 paraphrase it, because here is what I think has
19 happened. What was intended as a tool for law
20 enforcement -- and there is no question that that
21 is what our state courts have relied on -- this is
22 a tool, this statement of purpose in our act, our
23 registry act, is a tool for law enforcement. It
24 was intended as a tool for law enforcement with
25 limited accountable and controlled use and access

1 by the public.

2 Our statute, Judge, even references liability.

3 It even -- if they were so concerned with access,

4 unauthorized access, they wanted to make that

5 access the same as it would be for every other guy

6 in the system, ever other former offender, Judge,

7 if I want SLED to run a rap sheet on someone, I

8 have to fill out a form with my name on it and send

9 them a payment and they give me the guy's entire

10 criminal history. So this is not -- this statute

11 is not wrong, it is not unconstitutional in that it

12 allows for the publication of a criminal history.

13 It is wrong in the manner that it allows it, but

14 SLED is going beyond the manner by which the

15 statute allows that publication.

16 I am going to show you that specifically in a

17 minute, but from a big picture, this is -- if you

18 assume that the legislature wanted this to be a law

19 enforcement tool, which is what our Courts assume,

20 then why in four clicks on the Richland County

21 website do I get not some, all of the information

22 that SLED has about him, including his address and

23 where he works, so that people can know and go find

24 him and search him out and embarrass him. That is

25 why. And that is why the legislature said you

1 can't just put that out there in the public.

2 Judge, if you read the statute, those -- just
3 those -- those sections that I highlighted are the
4 sections that deal with publication. There are
5 three of them. Everything that is said about
6 publication in this statute is in those sections.
7 And the statute talks about sharing information
8 with three groups of people. The first is law
9 enforcement.

10 Judge, no problem with that, because that is
11 the purpose of the statute. That is what was
12 intended, is that the sheriff in a town, if a child
13 is abducted, to know exactly where around there --
14 that is what the statute was intended to do. That
15 is why it hits us in our gut when we find out we
16 are inviting people to assault these guys. But the
17 statute never intended for that invitation to
18 issue.

19 Here is what the Court said about a similar
20 statute in Michigan: The implementation and the
21 internet, the change in how we receive information
22 has transformed this statute -- and this is a
23 paraphrase from the Doe case -- into a byzantine,
24 punitive, and shameful scarlet letter with
25 unfettered and unaccountable and unintended and

1 unanticipated access and use by all.

2 Judge, our argument today is this: Two things
3 have transformed this law into an unconstitutional
4 and punitive violation of both the equal protection
5 clause and the Eighth Amendment. The first is,
6 social media and the internet. When this law was
7 written, nobody in this courtroom could make a
8 straight-face argument that the internet and social
9 media and the way we receive information and the
10 way we consolidate and disseminate information is
11 the same today as it was then. Courts around the
12 country have begun to recognize that.

13 As our Supreme Court noted in the Packingham
14 case -- and, by the way, the Packingham case, which
15 is cited in our brief, is also after the most
16 recent State Supreme Court, our State Supreme
17 Court's case on this, the Justin B. 2017 case.

18 In the Packingham case, the Supreme Court
19 noted the registration for 30 years seemed
20 excessive. And here is what the District Court in
21 Colorado said about Packingham -- about what
22 Justice Kennedy wrote in the Packingham opinion.

23 In our brief we cited Miller v. Rankin. Here
24 is what -- this is how -- I'm not wrong about this.
25 Miller v. Rankin also in August 31, 2017, Federal



South Eastern Assessments, Inc.
709 Old Trolley Road, Summerville, SC 29485
Office: (843) 821-2124 Fax: (843) 873-3143

**Psychosexual Evaluation Report
PRIVATE**

Client: Dennis Powell

Evaluator: William Burke, Ph.D.

Date of Assessment: January 12, 2009

Waiver of Confidentiality

Prior to the beginning of this assessment Mr. Powell was fully informed that anything he discussed during this consultation could be reported in the following summary his attorney Mr. Doug Truslow. He understood this as demonstrated by his ability to repeat back the conditions of this consultation as described above. He also so signed a release of records, so this consultation could be advanced to his attorney Mr. Truslow. This report contains personal information pertaining to Mr. Powell, and as such, it should be treated with utmost confidentiality, and should not be advanced forward without the written consent of Mr. Powell.

Warning Regarding the Release of Information

This psychosexual evaluation should not be released to the evaluatee other than under the supervision of a mental health practitioner, because the information in this summary may be detrimental to the evaluatee's emotional health.

Warning Regarding the Limitations of this Summary

This evaluation relied upon direct information from the patient, and collateral information provided by the patient and other sources. The validity of the information provided has not been established; therefore, the accuracy of this report is limited to the accuracy of the information provided. If additional information is provided, subsequent to this report, we may reach different

conclusions. Under these circumstances, we reserve the right to change our opinions. Given this and other limitations of the evaluation process, we are unable to determine an individual's past behavior or to predict an individual's future behavior with absolute certainty.

Assessment Instruments & Objective Measures:

Static 99

Stable 2007

Acute 2007

Hare Psychopathy Checklist-Revised

Abel Assessment for Sexual Interests: Version 2

Limestone Prefest Penile Plethysmograph

Minnesota Multiphasic Personality Inventory II

Burke Sexual Fantasy Scales

Conners Continuous Performance Test II

Background Information: Mr. Powell is a 31-year-old Caucasian male referred by his attorney for an evaluation subsequent to being arrested in the SC Attorney Generals Internet Predator Sting operation was in a Yahoo chat room and was talking to various people. When I first had contact with the officer I thought that it might be a Dateline kind of thing. So I investigated and got myself in trouble. I pursued the conversation and kept it going by acting like I was interested. She set up a time to meet but I said it was too late. I drove out there early to see if it was real or not. I never went to the exact location. I was so nervous that I was throwing up behind the Subway restaurant.

Historical Information: Mr. Powell reported that was born and raised in Columbia, SC. He is the older of two sons with a 28 year old brother Matthew. His father has been in the commercial mortgage business. His mother has been a legal secretary for the same attorney since moving to Columbia.

Mr. Powell stated that he was "the class clown" and did not take his education seriously. He played on the soccer team, football team, baseball, and basketball team. After high school, he attended Francis Marion College for one semester before transferring to the University of South Carolina and majored in Sports Management and Hotel Tourism Management. He graduated from USC in 2001.

Throughout college he worked at various restaurants. After graduating he moved to Ireland and worked in a pub in Galloway for 6 months. He stated he wanted to stay longer but his work visa expired. He then started working at Za's as the manager.

respondent non-compliance, and the current administration should be considered valid. Overall the CPT-II results suggest the possibility that Mr. Powell does not suffer from an Attention Deficit Hyperactivity Disorder.

The Hare Psychopathy Checklist-Revised (PCL-R) combines information from a clinical interview and other records. Data from these sources are used to rate 20 items, from which 3 scores are derived. Data from these sources are used to rate 20 items, from which 3 scores are derived. The Total Score indicates overall level of psychopathy, a personality disorder describing individuals who are callous, lack empathy, and engage in destructive behaviors with apparently no concern for the rights or welfare of others. Mr. Powell's total score was 9. This score is below the clinical cut-off score of 30 (which indicates the presence of psychopathy) and was in the 10.2nd percentile, indicating that 89.8 percent of the male inmates on whom this instrument was normed achieved higher scores than Mr. Powell. The Factor 1 score is derived from those items that assess a manipulative interpersonal style. Mr. Powell's score on this factor was 6 and fell at the 38th percentile, indicating that he scored above 38 % of the norming sample. The Factor 2 score is derived from those items that indicate serious behavioral problems. Mr. Powell's score on this factor was 3, which fell in the 6.1st percentile again indicating that he scored lower than 97.9 percent of the norming population. Mr. Powell does not appear to have a diagnosis of psychopathy.

Minnesota Multiphasic Personality Inventory II (MMPI2): The MMPI2 measures several areas of psychological distress and also contains 8 validity scales. Mr. Powell's validity scales were within normal limits, therefore, this may be an accurate representation of his personality. His overall profile suggests that he is indecisive and anxious. He may be socially extroverted but lack skills with the opposite sex. He may be rebellious toward home and parents but do not express these feelings openly. He is likely to be dissatisfied, pessimistic, demanding, and grouchy. Personality problems are likely to be central in his problem expression. Acting-out behavior and poor judgment are likely to be factors in his maladjustment.

Static 99: The STATIC-99 is an instrument designed to assist in the prediction of sexual and violent recidivism for sexual offenders. This risk assessment instrument was developed by Hanson and Thornton (1999) based on follow-up studies from Canada and the United Kingdom with a total sample size of 1,301 sexual offenders. The STATIC-99 consists of 10 items and produces estimates of future risk based upon the number of risk factors present in any one individual. The risk factors included in the risk assessment instrument are the presence of prior sexual

offences, having committed a current non-sexual violent offence, having a history of non-sexual violence, the number of previous sentencing dates, age less than 25 years old, having male victims, having never lived with a lover for two continuous years, having a history of non-contact sex offences, having unrelated victims, and having stranger victims. The STATIC-99 is a valid instrument to be utilized with individuals who have been charged with a sexual crime and have no prior charges or convictions.

The recidivism estimates provided by the STATIC-99 are group estimates based upon reconvictions and were derived from groups of individuals with these characteristics. As such, these estimates do not directly correspond to the recidivism risk of an individual offender. The offender's risk may be higher or lower than the probabilities estimated in the STATIC-99 depending on other risk factors not measured by this instrument. This instrument should not be used with Young Offenders (those less than 18 years of age) or women.

Mr. Powell scored a 2 on this risk assessment instrument. Individuals with these characteristics, on average, sexually reoffend at 16% over 15 years. The rate for any violent recidivism (including sexual) for individuals with these characteristics is, on average, 16% over fifteen years. Based upon the STATIC-99 score, this places Mr. Powell in the Low Medium risk category relative to other adult male sex offenders.

Based on a review of other risk factors in this case I believe that this STATIC-99 score accurately represents Mr. Powell's risk at this time. This predictive score does not take into account dynamic factors like the effect of treatment and supervision.

Translating STATIC-99 Scores into Risk Categories

Score	Label for Risk Category	15 year Reoffense Rate
0,1	Low	.13 & .07
2,3	Medium-Low	.16 & .19
4,5	Medium-High	.36 & .40
6 plus	High	.52

Translating STATIC-99 Scores into Risk Categories for Violent Crime and Sexual Recidivism:

0,1	Low	.13 & .15
2,3	Medium-Low	.16 & .30
4, 5	Medium-High	.36 & .52
6 plus	High	.59

Stable 2007: The STABLE-2007 was developed to assess change in intermediate-term risk status, assess treatment needs, and help predict recidivism in sexual offenders. Hanson and Harris (2000, 2007) developed this risk assessment instrument based on a large prospective study from Canada and the states of Alaska and Iowa with a total sample size of 997 sexual offenders. The STABLE-2007 consists of 13 items and produces estimates of stable dynamic risk based upon the number of stable dynamic risk factors present in any one individual. The risk factors included are the presence or absence of significant social influences, capacity for relationship stability, emotional identification with children, hostility toward women, general social rejection, lack of concern for others, impulsivity, poor problem solving skills, negative emotionality, sex drive and preoccupation, sex as coping, deviant sexual preference and co-operation with supervision.

Mr. Powell scored a 1 out of a possible 26 points on the STABLE-2007 and this places him as low needs on this assessment instrument. Men without a child sexual victim are scored out of 24 possible points. The STATIC-99 and the STABLE-2007 are then combined into a composite score. As Mr. Powell scored as a low risk on the STATIC-99 this score is combined with Mr. Powell's STABLE-2007 score of low needs to produce estimates of sexual recidivism, violent recidivism, and any criminal recidivism at one, to four years. The complete profile as Mr. Powell have been seen to recidivate sexually at 1.1% over 2 years and 2.0% over 4 years placing him in the low nominal risk category for sexual recidivism. Men with the same risk profile as Mr. Powell have been seen to recidivate violently at 3.4% over 2 years and 4.8% over 4 years placing him in the low nominal risk category for violent recidivism. This combined STATIC-99/STABLE-2007 assessment places Mr. Powell in the "lowest 35%" percentile of risk in comparison to the samples of origin.

Acute 2007: The ACUTE-2007 was developed to assess change in short-term risk status and help predict recidivism in sexual offenders. This risk assessment instrument was developed by Hanson and Harris (2000, 2007) based upon a large prospective study from Canada and the states of Alaska and Iowa with a total sample size of 997 sexual offenders. The ACUTE-2007 consists of seven items

and produces an estimate of risk for sexual and violent recidivism and a second risk of estimate for general recidivism. Estimates of acute dynamic risk are based upon the number of opportunities for victim access, hostility, sexual preoccupation, and rejection of supervision (four items) to produce an estimate of sexual and violent recidivism and then adding emotional collapse, collapse of social supports, and substance abuse for an estimate (seven items) of general recidivism risk. Mr. Powell scored as a low priority for sexual and violent recidivism and as a low priority for general recidivism. Combining Mr. Powell's STATIC-99/STABLE-2007 and ACUTE-2007 scores places Mr. Powell as a low Current Risk Priority for sexual and violent recidivism and low for general criminal recidivism.

The recidivism estimates provided by the STATIC-99/STABLE-2007 and ACUTE-2007 are group estimates based upon charges, convictions and breaches of conditional release derived from groups of individuals with these risk characteristics. As such, these estimates are based upon a group of offenders with the same risk profile as Mr. Powell. Mr. Powell's risk may be higher or lower than the estimated probabilities depending on other risk factors not measured by this instrument. This instrument should not be used with Young Offenders (those less than 18 years of age) or women.

Abel Screen Assessment:

The test results on the Abel Assessment fall into three categories:

- Ia. Objective measures taken beyond the client's awareness of sexual interest in 22 slide categories depicting children, teens, and adults, Caucasian and African-American, plus depiction of various deviant sexual behaviors.
- Ib. For comparison, the client also self-reports his ratings of sexual arousal to these same slides.
- II. Sex-offender specific questionnaire
- III. Probability Values

ISSUES TO BE ADDRESSED

There are two main issues that this test might assess using its three test result categories. The first is whether Mr. Powell appears to have a sustained sexual interest in children. The second is whether he has an interest in sadistic behavior. Objective measures taken beyond the client's awareness of sexual interest in 22 slide categories. Mr. Powell's objective measures taken beyond his awareness to 22-slide categories show: His significant sexual interests include Adult Caucasian Females and Adolescent Caucasian Females. He does not show an interest in sadistic behavior.

[It should be noted that normal heterosexual adult males show objective sexual interest in both adolescent and adult females.]

1. For comparison, client also self-reports his ratings of sexual interest to these same slides. For comparison to his objective measures, Mr. Powell's self-reported ratings of sexual arousal to 22 slide categories were congruent with objective measures. He did report arousal to both adult female and adolescent female stimulus sets.

II. Sex-offender specific questionnaire.

On Mr. Powell's self-report of sexual behavior on the Abel sex-offender-specific questionnaire for men, he denied he engaged in deviant sexual behavior. Mr. Powell's score on the Cognitive Distortion Scale indicated that he does not utilize cognitive distortions in this thinking processes regarding sexual behavior. Mr. Powell's score on the Social Desirability Scale was 60, which indicated an attempt to present himself in the best light possible.

III. Probability Values: The Probability of Past (PAST) Child Sexual Abuse (CSA) Behavior is based solely on a Denier-Dissimulator model. The PAST CSA is moot regarding this case.

Objective measures, beyond the client's awareness, showed Mr. Powell's greatest sexual interest to be in adult and adolescent females. In reference to the three main questions addressed by this assessment, Mr. Powell:

- 1) Does not appear to have a persistent sexual attraction to children.
- 2) Does not appear to have an interest in sadistic/masochistic sexual behavior.
- 3) Probability of PAST CSA Behavior is moot regarding this case.

Limestone Penile Plethysmograph: The Limestone Prefest Penile Plethysmograph is designed to measure sexual responsiveness to a variety of stimulus material across gender, age, and sexual activity. Simultaneously with his penile response, the subject's Galvanic Skin Response (GSR), body movement as detected by the Stingray Pneumatic Pad, and Respiration traces are monitored to attempt to detect faking. Penile tumescence is measured by a strain gauge that detects minute changes in penile engorgement. The assessment was conducted using the Limestone Prefest Plethysmograph system. Prior to the assessment, the

instrument was calibrated using a "four step cone" between 80 mm and 120 mm utilizing an Indium-Gallium gauge.

The standardized stimulus material utilized with this examination was the Real Child Voices Stimulus set. The purpose of a physiological assessment for sexual interests was explained to Mr. Powell and a voluntary participation consent form was signed. Mr. Powell said his primary fantasies are about adult females. He stated he had not consumed any illegal drugs. He denied consuming alcohol within the past 24 hours before taking the PPG exam. He denied having a sexually transmitted disease. The results of the PPG exam indicated that Mr. Powell demonstrated significant sexual arousal to the adult female persuasive and adolescent female persuasive stimulus presentations.

Burke Sexual Fantasy Scales (BSFS): The BSFS is a nationally normed instrument designed to quantify the thoughts, fantasies, fantasy & masturbation, and acting out categories of paraphilic behavior. The client's responses to the test questions provides information regarding their thought and fantasy processes as it relates to paraphilic behavior. There are two validity scales to assist with determining truthfulness in responding along with the 18 paraphilia scales. Mr. Powell's responses provided the following information: 1) He was admitting to the allegations against him; 2) He endorsed telephone scatologia and fetishism; and 3) His overall Awareness Quotient was 0.34, indicating poor awareness of his sexual fantasy processes or denial of the same.

Evaluations of sexual interest and sexual arousal are designed to determine the client's treatment needs and risk level. **OBJECTIVE SEXUAL RESPONSE PATTERNS CANNOT AND SHOULD NOT BE INTERPRETED AS INDICATIONS OF GUILT OR INNOCENCE REGARDING ANY SPECIFIC SEXUAL ACT.**

Conclusions: Mr. Powell does not appear to have chronic sexual interest in deviant sexual stimuli, as evidenced by his Abel Assessment VRT results. Mr. Powell demonstrated significant sexual arousal to the adult female persuasive and adolescent female persuasive stimulus sets during the PPG exam. There was no evidence of response interference during the PPG exam.

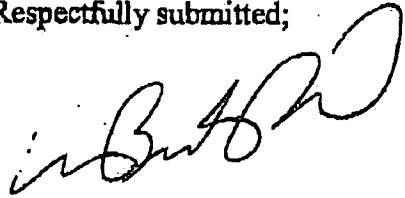
Mr. Powell's test results on the MMPI2 suggested that he may suffer from a major depression. Mr. Powell's test results for the Hare PCL-R did not indicate a diagnosis of psychopathy.

His level of risk according to the Combining of his STATIC-99/STABLE-2007 and ACUTE-2007 scores places Mr. Powell as a low Current Risk Priority for sexual and violent recidivism and low for general criminal recidivism.

Multiaxial Assessment:

Axis I R/O Ephebophilia
R/O Major Depression
Axis II N/A
Axis III N/A
Axis IV Severe; Legal Difficulties
Axis V 55 past year 70

Respectfully submitted;



William Burke, Ph.D. LPC

MARTIN PSYCHIATRIC SERVICES, PC
THOMAS V. MARTIN, M.D.

1330 Richland Street
Columbia, SC 29201

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October 30, 2009

Douglas N. Truslow, P.A.
Attorney at law
Post Office Box 1465
Columbia, SC 29202

Re: POWELL, Jr., Dennis Joseph

Dear Mr. Truslow,

This document serves as a medical statement addendum reflecting my psychiatric assessment, treatment progress, and prognosis of Mr. Powell.

Mr. Powell voluntarily sought my services on April 17, 2009 seeking assessment and treatment of his recent behavior that led to the charges of "criminal solicitation of a minor." To this date, I have conducted a comprehensive forensic psychiatric assessment followed by individual, group, and family sessions spanning more than twenty hours. I have also reviewed numerous legal and investigative documents surrounding Mr. Powell's case.

In the group setting, Mr. Powell has led discussions depicting his enhanced self-awareness that has served as a viable relapse prevention intervention tool. His honesty and genuineness has fine-tuned his once more guarded state. Mr. Powell's active participation in offering group feedback to other members addressing their own struggles further demonstrates his heartfelt empathy and knowledge of preventive methods precluding re-offense.

It is my opinion, within a reasonable degree of medical and psychiatric certainty that Mr. Powell does not suffer from a major mental illness, including that of any sexual perversion disorder (Paraphilia). His behavior that led to his charge of "criminal solicitation of a minor" was fueled by mild depressive symptoms and a struggle with character issues. These elements have been actively addressed and remedied in psychiatric treatment. It is also my opinion that Mr. Powell is a low-risk to re-offend sexually while he continues in therapeutic treatment. His behavior has been appropriate, insightful; and effective interventions have been implemented to thwart the likelihood of future acting-out. Mr. Powell's development of more mature and healthy character traits makes him a viable member and his return to the community and workforce most imperative.

SENSITIVE MEDICAL MATERIAL

1

MARTIN PSYCHIATRIC SERVICES PC

My recommendations include Mr. Powell's continued treatment in the current outpatient setting over the next year. His family and any other supportive agencies are welcome to participate in Mr. Powell's progress. He does not meet the criteria for a Sexually Violent Predator, nor is he a typical candidate for lifetime GPS monitoring. Overall, Mr. Powell's prognosis for improvement and safety in the community is quite favorable and he harbors a high potential to return to our community as a viable citizen.

If you have any questions or concerns pertaining to Mr. Powell's case, please feel free to contact my office.

Sincerely,



Thomas V. Martin, M.D.

Psychiatrist

Diplomate, Psychiatry, American Board of Psychiatry and Neurology

Diplomate, Forensic Psychiatry, American Board of Psychiatry and Neurology

SENSITIVE MEDICAL MATERIAL

2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	
DENNIS JOSEPH POWELL, JR.	)	AFFIDAVIT OF THOMAS V. MARTIN, M.D.
PETITIONER	)	
v.	)	
MARK KEEL	)	
DIRECTOR, SOUTH CAROLINA	)	
LAW ENFORCEMENT	)	
DIVISION (SLED), AND THE	)	
STATE OF SOUTH CAROLINA	)	
RESPONDENT	)	

I, Thomas V. Martin, M.D., am a licensed physician (psychiatrist) in the state of South Carolina. I am Board Certified in General and Forensic Psychiatry by the American Board of Psychiatry and Neurology and the American Board of Forensic Psychiatry. My practice is located at 1330 Richland Street, Columbia, SC. My practice includes the care and treatment of patients from childhood to geriatrics. I have been qualified to testify in numerous counties in South Carolina as well as the United States Federal Courts. My practice of twenty-eight years includes the assessment and treatment of many sexual offenders from all counties in South Carolina.

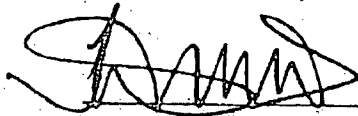
Being duly sworn I do swear and affirm the following:

- 1) Mr. Dennis J. Powell, Jr. is a 40-year-old, single Caucasian male who works as a line cook at Terra's Italian Restaurant with more than seven years of employ in Columbia, South Carolina. He carries no major mental health or substance abuse history and has no prior criminal record. Mr. Powell was arrested and charged in Richland County with "*Criminal Solicitation of a Minor*" in February 2008, pled guilty in April 2009, and received a two-year suspended sentence with one year probation, sexual offender treatment, and submission to the SC Sex Offender Registry. He committed no probation violations, had no positive drug screens, and successfully completed his probationary sentence in 2011. He attended sexual offender group therapy with this Examiner beginning April 17, 2009 and successfully completed the program on February 27, 2011. Mr. Powell never failed to comply with the SC Sex Offender Registry requirements. He is now petitioning to have this requirement removed and be taken off the lifetime registry.
- 2) This Examiner's assessment of Mr. Powell's case and petition included an initial three-hour intake interview with Mr. Powell, consultation with his father, Mr. Dennis J. Powell, Sr., and a review of his criminal record and supporting documents. Furthermore, Mr. Powell actively participated in 60-hours of group therapy and was a model member. After his graduation from treatment in 2011, Mr. Powell and his father consulted with this Examiner recently for an interim psychiatric evaluation.
- 3) Mr. Powell presented with a long, consistent history of appropriate behavior and carried no history of aberrant behavior around children.

MARTIN PSYCHIATRIC SERVICES, PC

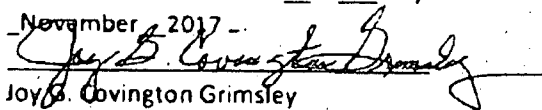
- 4) Diagnostically and after many hours of forensic psychiatric assessment, Mr. Powell does not meet the criteria for a major mental illness, substance abuse disorder, personality disorder, nor does he meet the criteria for a sexual perversion disorder (Paraphilia). He no longer requires sex offender-specific therapy.
- 5) In conclusion, Mr. Powell has maintained a laudable demeanor, and has made valiant efforts to reintegrate into the community as a productive citizen. Mr. Powell consistently demonstrates appropriate behavior in his church and with his family.
- 6) It is pertinent to note that Mr. Powell's semi-annual re-registry as a sexual offender has only proven to be detrimental to his sense of integrity, is preventing him from starting and maintaining relationships with friends, instills fear of violent community retaliation, and adversely impacts his advancement in business. He lives alone and wishes to move into an upscale neighborhood, yet the SC Sex Registry has precluded his transition in the community. Mr. Powell feels haunted by the fact that his name remains on the registry and when friends, church congregants and customers have incidentally seen his name, many have become inquisitive, guarded, or avoidant.
- 7) It is the opinion of this Examiner to a reasonable degree of medical and psychiatric certainty that Mr. Powell poses a very low risk to sexually reoffend. Mr. Powell does not need any deterrent to prevent him from sexual acting out. The SC Sex Offender Registry serves to assist law enforcement and the community in monitoring those dangerous individuals who do not manage their aberrant sexual behaviors and fail to follow our social and community mores. Mr. Powell does not meet these criteria, nor does he require such monitoring.

Further affiant sayeth not.


Thomas V. Martin, M.D.

Sworn to before me this 29 day of

November, 2017.



Joya B. Covington Grimsley

A Notary Public for South Carolina

My Commission Expires: 12-15-2017

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

COURT OF GENERAL SESSIONS

2008-GS-40-3887

State of South Carolina)

vs.)

TRANSCRIPT OF RECORD

Guilty Plea

Dennis J. Powell, Jr.,)

Defendant.)

April 2, 2009
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE

APPEARANCES:

S. ~~Prentiss Counts~~, Assistant Attorney General
Attorney for the State of South Carolina

Douglas Truslow, Esq.
Attorney for the Defendant

JENNY H. WILLIAMS
Official Court Reporter
(803) 351-9742

1 already there.

2 Your Honor, the third thing as regards Dennis, you
3 have his statement. You have -- we've tried to do -- his
4 parents, I mean, are just wonderful people. They support
5 their son. They immediately got him in treatment. And
6 the person we selected, Your Honor, it's no coincidence
7 that we select first Doctor Larry Bergman from
8 Post-traumatic Resources, the reason being is that he is
9 about the toughest guy known and is a victim's advocate.

10 That's how he's developed his career. We didn't
11 want to go to have Dennis seen by somebody and counseled
12 and treated by somebody who was going to let him think
13 that he was a victim and that he needed to accept
14 responsibility.

15 Dennis reported to me after he first saw him: I
16 don't think Dr. Bergman likes me. And I told him that's a
17 good thing. You need to go back to him. You need to see
18 him. You need to listen to what he has had to say. And
19 he's indicated that Dennis has done very well.

20 He hasn't tried to minimize what he has done. He's
21 made every single appointment. He's made tremendous
22 advances. And that led us up to the second thing, and
23 that was we wanted, to get an evaluation so Your Honor, if
24 Your Honor would consider probation you would have a
25 strong basis for probation. And that was an evaluation by