

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

2014 JUL 21 AM 11:58
Michael Edward McCrossin,)

CASE NO.: 2014-CP-32-00030
INDICTMENT NO.: 1996-GS-32-2965

BETH A. CARRIGG
Plaintiff, CLERK OF COURT
LEXINGTON SC)

v.)
State of South Carolina,)
Defendant.)
_____)

CONSENT ORDER

This matter comes before the Court upon Plaintiff's third Application for Post-Conviction Relief filed on January 6, 2014 in which the Plaintiff seeks removal from the South Carolina Sex Offender Registry. The parties acknowledge that removal cannot be granted in a Post-Conviction Relief action as set forth in *Williams v. State*, 378 S.C. 511, 662 S.E.2d 615 (Ct. App. 2008). However, the parties consent to this action being treated as a Petition for Declaratory Judgment. Pursuant to the Declaratory Judgment Act, the Court of Common Pleas has the power to make the determination that a prior kidnapping offense did not involve sexual misconduct such that the one convicted is required to register as a sex offender. *Hazel v. State*, 377 S.C. 60, 65, 659 S.E.2d 137, 140 (2008).

W.M.
#1

On or about August 5, 1997, the Plaintiff pled guilty to kidnapping in violation of § 16-3-910 of the Code of Laws of South Carolina, as amended. The Plaintiff received a twenty (20) year sentence for Kidnapping and Armed Robbery. At the time of the sentencing, the court did not make any findings as to whether the kidnapping offense included a criminal sexual offense or an attempted sexual offense. The Plaintiff was released from the South Carolina Department of Corrections on April 1, 2014.

Pursuant to South Carolina Code § 23-3-400 *et seq.*, one convicted of kidnapping a person eighteen years of age or older must register as a sexual offender unless the court makes the finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense. The Parties stipulate that the kidnapping offense for which the Plaintiff pled guilty on August 5, 1997, did not include a criminal sexual offense or an attempted criminal sexual offense, and the victim was eighteen years of age or older.

Accordingly, this Court finds *nunc pro tunc* that the offenses of kidnapping to which the Plaintiff pled guilty to on August 5, 1997 in the above-captioned indictment did not include a criminal sexual offense or an attempted criminal sexual offense, and the victim was eighteen years of age or older.

#2 Accordingly, it is hereby,

ORDERED that the Plaintiff's name be removed from the sex offender registry,

It is further

ORDERED that the Plaintiff is relieved from any further report requirements contained in South Carolina Code § 23-3-400 *et seq.*

AND SO IT IS ORDERED this date of July 14, 2014.

William P. Chesley
Presiding Judge
Eleventh Judicial Circuit

Dated: July 9, 2014

Columbia, South Carolina

ON MOTION OF:

[Signature]

WITH THE CONSENT OF:

Conroy E. Howell