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**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

**STATE OF FLORIDA,**

**Plaintiff,**

**v.**

**DAVID WHITEHEAD,**

**Defendant.**

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**FILED**  
NOV 15 2022  
CLERK JW

**CRIMINAL DIVISION**

**Case No.: F95-37823**

**Judge Daryl E. Trawick**

**ORDER GRANTING DEFENDANT’S PETITION FOR REMOVAL FROM  
FLORIDA’S SEXUAL OFFENDER REGISTRY**

THIS CAUSE, having come before the Court on the Petition of DAVID WHITEHEAD for Removal from Florida’s Sexual Offender Registry, and finding that the State Attorney has been given notice of the petition at least 3 weeks before the hearing on this matter, and having considered the Petition, hearing the positions of both Parties who were present, and otherwise being fully advised in the premises, the Court finds the following:

1. This Court has proper jurisdiction to consider the instant petition.
2. On March 16, 2022, Defendant petitioned the Court for Removal from Florida’s Sexual Offender Registry pursuant to Florida Statutes §943.0435 (11) (2002), which provides that after being released from all sanctions for at least

twenty (20) years and not having been arrested for any other felony or misdemeanor, an individual may petition the criminal division of the circuit court for the purpose of removing the requirement for registration as a sexual offender.

3. Defendant's obligation to register as a sexual offender arises from a 1997 conviction for which Defendant was sentenced to probation.

4. Defendant successfully completed probation on February 16, 2002. The record supports, and the parties agree, that he has had no arrests since then.

5. The parties agree to the facts and procedural history related to Defendant's offense and criminal history. Defendant presented factors indicating he does not present a risk to the safety of the citizens of Florida, including that he has been free of all sanctions for more than 20 years without any criminal infractions, has strong social support, employment and housing stability and has that he not lived in the state of Florida for decades and has no plan to ever return. Defendant also presented to the Court a recent Risk Assessment performed in March of 2022, by Dr. JoEllen Wiggington, Ph.D., and a letter from Clinical Psychologist Dr. Steven H. Moss. According to Dr. Wiggington, Defendant's risk of re-offense is minimal. Dr. Moss similarly concluded that "He (Defendant) is extremely unlikely to reoffend and is not a risk to the community. The State did not controvert these facts that mitigate Defendant's risk to the citizens of the State of Florida.

6. Where the Parties disagree, is on whether a 2007 Amendment to §943.0435 (11) (the “Removal provision”) (Ch. 2007-209, § 2) should apply to Defendant.

7. Defendant brought his Petition under the 2002 version of §943.0435 (11) which was in effect on the date he completed probation, and his twenty-year period began to run.

8. The State argued that the 2007 amendment to the Removal Provision, which was enacted five years later and effectively moves the finish line from twenty (20) years to twenty-five (25) years, should apply.

9. Without any binding precedent in this State on the narrow issue of the retroactive application of Ch.2007-209, §2, the Court considered the arguments of the parties and the cases presented.

10. The State presented *Simmons v. State*, 753 So. 2d 762, 763 (Fla. 4th DCA 2000); *Freeland v. State*, 832 So.2d 923 (Fla. 1st DCA 2002); *State v. Partlow*, 840 So.2d 1040 (Fla. 2003), and *Givens v. State*, 851 So. 2d 813 (Fla. 2d DCA 2003), which were all decided years prior to the 2007 amendment and therefore could not consider the application of a provision that did not exist at the time those cases were decided. “[C]hallenges to [] new provisions [to Florida’s sex offender registration laws] are not foreclosed by decisions that did not address them.” *Doe v. Swearingen*, Case No. 4:21-cv-00084-RH-MJF.

11. Even the more recent cases cited to by the State, including *Vega v. State*, 208 So. 3d 215 (Fla. 3d DCA 2016), and *Love v. State*, 286 So. 3d 177, 188 (Fla. 2019) are not instructive because they do not address the narrow issue before the Court. Specifically, none of the State's cases addressed Ch. 2007-209, § 2 (the 2007 amendment to the Removal Provision).

12. The State's argument is premised on the broad conclusion that because the 2002 or 2003 version of Florida's Registration Statute did not violate ex post facto provisions, the 2007 version, and similarly the current 2022 version, must also not violate ex post facto provisions.

13. Defendant concedes that while *Simmons* and its progeny were applicable at the time they were decided, their precedential value is overcome by subsequent events; specifically, the nearly two dozen amendments<sup>1</sup> that have been enacted in the twenty years since those cases were decided.

14. Defendant further argues that none of the cases presented by the State relate to the issue of the waiting period before one may petition for removal from registration. While the parties agree there are no Florida appellate court opinions on this narrow issue, Defendant provided the Court with several Circuit Court

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<sup>1</sup> Ch. 2004-371, § 9; Ch. 2005-28, § 3; Ch. 2006-200, § 3; Ch. 2006-299, § 4; s. Ch. 2007-5, § 159; Ch. 2007-143, § 10; Ch. 2007-207, § 4; Ch. 2007-209, § 2; Ch. 2009-194, § 3; Ch. 2010-92, § 4; Ch. 2012-19, § 4; Ch. 2012-97, § 11; Ch. 2013-116, § 11; Ch. 2014-4, § 10; Ch. 2014-5, § 5; Ch. 2014-160, § 26; Ch. 2015-2, § 99; Ch. 2016-24, §§ 10, 51; Ch. 2016-104, § 3; Ch. 2017-170, § 2; Ch. 2018-105, § 2; Ch. 2021-156, § 2; Ch. 2021-189, § 8.

orders from around the State of Florida showing that those courts have found that Ch. 2007-209, § 2 would not apply retroactively as to the petitioners.<sup>2</sup>

15. The State provided the Court with one opinion from this Circuit which relied on *Smith v. Doe*, 538 U.S. 84 (2003) (which held the 2003 version of Alaska's registration statute did not violate the prohibition against ex post facto laws). To that argument, Defendant cited to numerous Federal Courts and State Supreme Courts which have expressly departed from the conclusions of *Smith v. Doe*, see *Does #1-5 v. Snyder*, 834 F.3d 696, (6th Cir. 2016) ("Nor should Smith be understood as writing a blank check to states to do whatever they please in this arena."). Even Alaska's own Supreme Court, less than five years after *Smith v. Doe*, found that the 2008 version of Alaska's registry violated ex post facto prohibitions. *Doe v. State*, 189 P.3d 999 (Alaska 2008).

16. The Court finds persuasive Defendant's presentation of *State v. Williams*, 952 NE 2d 1108 (Ohio 2011), where the courts in the State of Ohio had historically consistently held that its registration statute was remedial and not punitive, but the

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<sup>2</sup> The Court finds the analysis, precedents cited, and conclusions of two of those decisions particularly persuasive: *State v. Hurley*, 1994-1352 CFAWS (Fla. 7<sup>th</sup> Jud. Cir. July 8, 2022) (Clayton, J.); and *State v. Grady*, CR-0-95-14790/A (Fla. 9<sup>th</sup> Jud. Cir. Jan. 27, 2022) (Wilson, J.). This Court hereby adopts the analysis of these two well-reasoned orders, and both are attached to this order. Other trial courts which have reached the same conclusions include *State v. Sebring*, 1998-CF-000423 (Fla. 6<sup>th</sup> Jud. Cir. March 9, 2022); *State v. Rawiszer*, 95-12511CF10A (Fla. 17<sup>th</sup> Jud. Cir. 2021); *State v. Steele*, 93-007413 (Fla. 17<sup>th</sup> Jud. Cir. 2021); *Hamlin v. Swearingen, et al.*, 2019-CA-001926 (Fla. 1<sup>st</sup> Jud. Cir. 2020); *State v. Eicher*, CF93-001505-XX (Fla. 10<sup>th</sup> Jud. Cir. 2020 (motion denied on other grounds)); and *State v. Merritt*, 95-CF-004231 A (Fla. 1<sup>st</sup> Jud. Cir. 2019). Each of these orders is also attached.

as to violate the constitutional prohibition against ex post facto laws; such a determination is a ‘matter of degree.’” *Id.*

17. Like in *Williams*, the registration scheme in Florida had transformed significantly between 2003 and 2007, and even more so today, where any violation of this “regulatory scheme” carries a mandatory minimum criminal penalty. The reasons cited to by the court in *Williams* are present in Florida.

18. In Florida, for a law to run afoul of the ex post facto prohibition, two elements must coincide: “first, the law ‘must be retrospective, that is, it must apply to events occurring before its enactment’ and second, ‘it must disadvantage the offender affected by it.’” *Miller v. Florida*, 482 U.S. 423, 430, 107 S.Ct. 2446, 96 L.Ed.2d 351 (1987).

19. Satisfying the first element, the 2007 Amendment to the Removal Provision (Ch. 2007-209, § 2) is being applied retroactively against Defendant.

20. Satisfying the second element, the additional five years Defendant is required to remain on Florida’s public sex offender registry before becoming eligible to petition for removal does disadvantage him.

21. The Court thus finds that the 2007 Amendment to Florida Statutes §943.0435 is a substantive change which cannot be applied retroactively against Defendant, who was placed on the sex offender registry prior to its enactment.

22. The Court further finds that public dissemination of Defendant's name and image with the words 'David Reed Whitehead is registered as a Sexual Offender' on a Google-indexed website carries with it shame, humiliation, ostracism, decreased opportunities for employment, exposure to vigilantism and physical violence, as well as a multitude of other adverse consequences. "The act of being publicly labeled [] a "sexual predator" clearly results in a stigma. *See, e.g., Doe v. Pataki*, 3 F.Supp.2d 456, 467-68 (S.D.N.Y.1998) (stating that "First, [the offenders] have convincingly demonstrated that, when implemented, the community notification provisions of the Act will likely result in their being branded as convicted sex offenders who may strike again and who therefore pose a danger to the community.... [S]uch widespread dissemination of the above information is likely to carry with it shame, humiliation, ostracism, loss of employment and decreased opportunities for employment, perhaps even physical violence, and a multitude of other adverse consequences. Thus, there is no genuine dispute that the dissemination of the information contemplated by the Act to the community at large is potentially harmful to the [offenders'] personal reputations."). *Espindola v. State*, 855 So. 2d 1281 (Fla. 3rd DCA 2003)

23. Additionally, the Court is persuaded by Defendant's arguments and finds that he is not a current or potential threat to public safety.

23. Additionally, the Court is persuaded by Defendant's arguments and finds that he is not a current or potential threat to public safety.

Accordingly, it is ORDERED AND ADJUDGED that the Petition be GRANTED and that Defendant's requirement to register as a Sexual Offender in the State of Florida is hereby removed. The Florida Department of Law Enforcement is directed to remove Mr. Whitehead from the registry.

DONE AND ORDERED in chambers, at Miami-Dade County, Florida, on this 26<sup>th</sup> day of October, 2022.

  
DARYL E. TRAWICK  
CIRCUIT COURT JUDGE

Atchs:

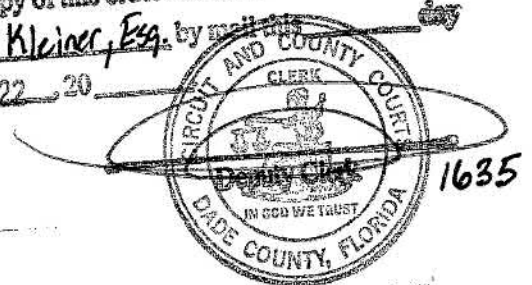
1. Order in *State v. Hurley*, 1994-1352 CFAWS (Fla. 7<sup>th</sup> Jud. Cir. July 8, 2022).
2. Order in *State v. Grady*, CR-0-95-14790/A (Fla. 9<sup>th</sup> Jud. Cir. Jan. 27, 2022).
3. Orders in the cases of *State v. Sebring*, 1998-CF-000423 (Fla. 6<sup>th</sup> Jud. Cir. March 9, 2022); *State v. Rawiszer*, 95-12511CF10A (Fla. 17<sup>th</sup> Jud. Cir. 2021); *State v. Steele*, 93-007413 (Fla. 17<sup>th</sup> Jud. Cir. 2021); *Hamlin v. Swearingen, et. al.*, 2019-CA-001926 (Fla. 1<sup>st</sup> Jud. Cir. 2020); *State v. Eicher*, CF93-001505-XX (Fla. 10<sup>th</sup> Jud. Cir. 2020; and *State v. Merritt*, 95-CF-004231 A (Fla. 1<sup>st</sup> Jud. Cir. 2019).

Copies furnished to all parties of record

STATE OF FLORIDA, COUNTY OF MIAMI DADE  
I HEREBY CERTIFY that the foregoing is a true  
and correct copy of the original on file in this office  
NOV 16 2022 AD 23  
NARVEY RICHIE, Clerk of Circuit and County Courts  
Deputy Clerk



CERTIFY that a copy of this order has been furnished to  
the MOVANT, Ben Kleiner, Esq. by mail on  
of NOV 16 2022, 20



  
1635



Accordingly, it is ORDERED AND ADJUDGED that the Petition be GRANTED and that Defendant's requirement to register as a Sexual Offender in the State of Florida is hereby removed. The Florida Department of Law Enforcement is directed to remove Mr. Whitehead from the registry.

DONE AND ORDERED in chambers, at Miami-Dade County, Florida, on this 26<sup>th</sup> day of October, 2022.

  
DARYL E. TRAWICK  
CIRCUIT COURT JUDGE

Atchs:

1. Order in *State v. Hurley*, 1994-1352 CFAWS (Fla. 7<sup>th</sup> Jud. Cir. July 8, 2022).
2. Order in *State v. Grady*, CR-0-95-14790/A (Fla. 9<sup>th</sup> Jud. Cir. Jan. 27, 2022).

Copies furnished to all parties of record

# **ATTACHMENT 1**

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA  
CASE NO: 1994-1352 CFAWS

STATE OF FLORIDA

Vs

WILLIAM HURLEY

Defendant

CLERK OF THE CIRCUIT  
& CTY. COURT VOLUSIA CTY., FL  
CC 35

2022 JUL -8 PM 3:20

FILED

**ORDER GRANTING DEFENDANT'S PETITION**  
**FOR REMOVAL OF THE REQUIREMENTS TO REGISTER AS A**  
**SEXUAL OFFENDER IN THE STATE OF FLORIDA PURSUANT TO**  
**SECTION 943.0435(11)**

THIS MATTER came on before the court on Defendant/Petitioner, WILLIAM HURLEY's Petition for Removal of the Requirement to Register as a Sexual Offender in the State of Florida pursuant to Florida Statute 943.0435(11). The court has jurisdiction over this matter.

F.S. 943.0435(11) requires the State Attorney in the circuit in which the petition is filed be given notice of the petition at least 3 weeks before the hearing on the matter. The State Attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied; The hearing was held initially on February 4, 2022 and completed on June 27, 2022. Petitioner, his attorney and Assistant State Attorney were present.

Petitioner's obligation to register as a sexual offender arises from a No Contest Plea to Attempted Lewd and Lascivious Assault upon a Child in April 1995. Petitioner was ordered to

comply with five years probation and was granted a Withhold of Adjudication. Probation was terminated on June 22, 2000.

Section 943.0435(11) 2001, the statute under which Petitioner seeks removal, affords persons required to register as sexual offenders, the opportunity to petition for removal of that obligation twenty (20) years after the completion of all sanctions relating to their offense and having not been arrested for any felony or misdemeanor offense since release.

The court finds and the record reflects that Petitioners sanctions terminated on June 22, 2000, the date he successfully completed probation. Accordingly, he has been released from all sanctions relating to his sexual offense for more than twenty (20) years. The court finds that Petitioner has had no subsequent arrest and does not present a risk to public safety.

The State opposed Mr. Hurleys Petition, arguing that the 2007 Florida Statute 943.0435(11) was amended to require twenty- five years (25) instead of twenty (20), before an individual could seek removal from the sex offender registry. Since it has not yet been twenty five (25), the state contends that this Petition is premature.

Counsel for Petitioner argued that the pre-amendment version of F.S. 943.0435 should apply, making several arguments in support. First, nowhere in the language of the Amendment nor in the legislative intent does it state that the amendment should apply retroactively. Second, the amendment is a substantive change to the law and while procedural amendments can be applied retroactively, substantive amendments cannot. And third, if the 2007 amendment to FS 943.0435 (extending the period before which an individual can petition for removal by five years) were to be applied retroactively, it would raise constitutional concerns.

The Court agrees with Petitioner. The 2007 Amendment to F.S. §943.0435 (Ch. 2007-209, § 2, Laws of Fla.), which extends the period before which a person is eligible to petition for removal from Florida's sex offender registry from twenty (20) to twenty-five (25) years does not apply retroactively.

According to statutory interpretation, the presumption is that statutory enactments apply prospectively only. Statutes that "attach new legal consequences to events completed before their enactment" or which "impair[s] existing rights" are presumed not to apply retroactively absent an express legislative statement to the contrary. *McMillian v. State, Dept. of Revenue*, 746 So. 2d 1234 at 1237, (Fla. 1st DCA 1999) ("The general rule [of statutory construction] is that a substantive statute will not operate retrospectively absent clear legislative intent to the contrary, but that a procedural or remedial statute is to operate retrospectively." See *Life Care Centers v. Sawgrass Care Center*, 683 So.2d 609, 613 (Fla. 1st DCA 1996), quoting *State Farm Mutual Automobile Insurance Co. v. Laforet*, 658 So.2d 55, 61 (Fla. 1995). "Statutes that relate only to procedure or remedy generally apply to all pending cases," but a substantive law that interferes with vested rights will not be applied retrospectively. See *Gupton v. Village Key & Saw Shop, Inc.*, 656 So.2d 475, 477 (Fla. 1995).

Nowhere in the language of the 2007 Amendment to Florida Statute § 943.035(11) (Ch. 2007-209, § 2, Laws of Fla.) does it state that it applies retroactively. Substantive amendments to a statute are legislation which "impairs existing rights" or which attach "new legal consequences to events completed before its enactment" and cannot be applied retroactively. *McMillan* at 1237 (discussing the difference between "substantive" and "procedural" or "remedial" statutes); see also *Basel v. McFarland & Sons, Inc.*, 815 So. 2d 687, 692 (Fla. 5th DCA 2002) ("In the absence of clear legislative intent, a law affecting substantive rights is presumed to apply prospectively[.]").

While the State argued that this change to F.S. §943.0435 was remedial, “simply because the legislature indicates something is remedial does not necessarily mean it is to be applied retroactively”. *Id.* At 695, citing *State Farm* At 61. If a statute accomplishes a remedial purpose by creating new substantive rights and imposing new legal burdens, the presumption against retroactivity still applies. *Id.* At 695, citing *Metro. Dade County v. Chase Fed. Housing*, 737 So. 2d 494 at 500 (Fla. 1999)

The 2007 Amendment to § 943.035(11) creates “new legal consequences to events completed before its enactment,” in that it increases the minimum period of registration, and subjection to all the obligations and legal disabilities attendant to registration. It also impairs Mr. Hurleys right to petition after twenty (20) years.

While both parties conceded that no Florida District Court of Appeal has ruled on the narrow issue of extending the period before which an individual can petition for removal under F.S. §943.0435, Petitioner has cited to other state’s supreme courts who have dealt with this identical issue. In such cases, courts have determined that the legislature cannot “move the finish line” without a hearing and with no change in circumstances, *Starkey v. Oklahoma Dept. of Corrections*, 305 P. 3d 1004 (Okla. 2013). This Court agrees that the State cannot retroactively increase the mandatory minimum period of registration without running afoul of Constitutional protections.

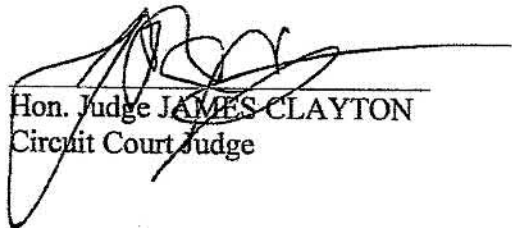
To that point, Petitioner has also provided the Court with numerous decisions from other Florida Circuit Courts, as well as cited to decisions from appellate courts in other jurisdictions, where retroactive application of certain provisions of sex offender registration requirements have been found to violate both federal and state constitutional provisions. Specifically, Petitioner has cited to; *State v. Letalien*, 985 A.2d 4 – Maine Supreme Court (2009); *Com. v. Baker*, 295 S.W.3d

437 – Supreme Court of Kentucky (2009); *Riley v. New Jersey State Parole Bd.*, 219 N.J. 270 – New Jersey (2014); *Does #1-5 v. Snyder*, 834 F.3d 696 – United States Court of Appeals for the Sixth Circuit (2016), *Commonwealth v. Muniz*, 164 A.3d 1189 – Pennsylvania Supreme Court (2017). *State v. Williams*, 129 Ohio St. 3d 344 – Ohio Supreme Court (2011); *Doe v. State*, 189 P.3d 999 – Alaska Supreme Court (2008); *Wallace v. State*, 905 N.E.2d 371 – Indiana Supreme Court (2009); *State v. Pollard*, 908 N.E.2d 1145 –Indiana Supreme Court (2009); *Gonzalez v. State*, 980 N.E.2d 312 – Indiana Supreme Court (2013) (Ind.2013) *Doe v. State*, 167 N.H. 382 – New Hampshire Supreme Court (2015); *In the Matter of Registrant J.D.F.* (A-24-20) – New Jersey Supreme Court (August 9, 2021). The Court finds the weight of these cases to be persuasive.

Having considered Mr. Hurleys Petition, hearing the arguments from both Counsel for the Petitioner and the State, having reviewed the applicable law, and the Court being otherwise fully advised in the premises, the Court finds the 2007 Amendment to F.S. §943.0435 is a substantive change which cannot be applied retroactively against Petitioner, who was placed on the sex offender registry prior to its enactment. Accordingly, it is hereby:

ORDERED that the Petition be GRANTED, and that WILLIAM HURLEY is no longer required to comply with the requirements for registration as a sexual offender.

DONE AND ORDERED on JULY 8, 2022.

  
Hon. Judge JAMES CLAYTON  
Circuit Court Judge

Cc States Attorney  
FDLE  
William Hurley

## **ATTACHMENT 2**



IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,  
Plaintiff/Respondent,

CASE NO. CR-O-95-14790/A

DIVISION NO. 15

vs.

MICHAEL PATRICK GRADY,  
Defendant/Petitioner.

FILED IN OPEN COURT 1-27-2022  
Clerk, Cir. Ct., Orange Co., FL  
By [Signature] D.C.

**ORDER GRANTING DEFENDANT'S PETITION FOR REMOVAL OF THE  
REQUIREMENT TO REGISTER AS A SEXUAL OFFENDER IN THE STATE OF  
FLORIDA PURSUANT TO FLORIDA STATUTE §943.0435(11)**

THIS MATTER came before the Court on Defendant/Petitioner, Michael Patrick Grady's Petition for Removal of the Requirement to Register as a Sexual Offender in the State of Florida, pursuant to Florida Statute §943.0435 (11). The Court has jurisdiction over this matter.

F.S. §943.0435 (11) requires that the State Attorney in the circuit in which the petition is filed be given notice of the petition at least 3 weeks before the hearing on the matter. The State Attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. The Court finds that the State Attorney has been given notice of the petition at least 3 weeks before the hearing on this matter, which was held on October 20, 2021. Petitioner, his attorney, and the Assistant State Attorney were present.

Petitioner's obligation to register as a sexual offender arises from a 1996 conviction for a sexual offense, for which he was sentenced to 3 years' probation.

Florida Statute §943.0435 (11) (2001), the Statute under which Petitioner seeks removal, affords persons required to register as sexual offenders the opportunity to petition for removal of

that obligation twenty (20) years after the completion of all sanctions relating to their offense and having not been arrested for any felony or misdemeanor offense since release.

The Court finds that the record reflects that Petitioner's sanctions terminated on July 10, 2001, the date he successfully completed probation. Accordingly, he has been released from all sanctions relating to his sexual offense for more than twenty (20) years. The Court further finds that Petitioner has had no subsequent arrests and does not present a risk to public safety.

The State opposed Mr. Grady's Petition, arguing that in 2007 Florida Statute §943.0435 (11) was amended to require twenty-five (25) years, instead of twenty (20), before an individual could seek removal from the sex offender registry. Since it has not yet been twenty-five (25) years, the State contends that this Petition is premature.

Counsel for Petitioner argued that the pre-amendment version of F.S. §943.0435 should apply, making several arguments in support. First, nowhere in the language of the Amendment, nor in the legislative intent does it state that the amendment should apply retroactively. Second, the amendment is a substantive change to the law and while procedural amendments can be applied retroactively, substantive amendments cannot. And third, if the 2007 amendment to F.S. §943.0435 (extending the period before which an individual can petition for removal by five years) were to be applied retroactively, it would raise constitutional concerns.

The Court agrees with Petitioner. The 2007 Amendment to F.S. §943.0435 (Ch. 2007-209, § 2, Laws of Fla.), which extends the period before which a person is eligible to petition for removal from Florida's sex offender registry from twenty (20) to twenty-five (25) years does not apply retroactively.

According to statutory interpretation, the presumption is that statutory enactments apply prospectively only. Statutes that "attach[] new legal consequences to events completed before their

enactment” or which “impair[s] existing rights” are presumed not to apply retroactively absent an express legislative statement to the contrary. *McMillan v. State, Dept. of Revenue*, 746 So. 2d 1234 at 1237, (Fla. 1st DCA 1999) (“The general rule [of statutory construction] is that a substantive statute will not operate retrospectively absent clear legislative intent to the contrary, but that a procedural or remedial statute is to operate retrospectively.” See *Life Care Centers v. Sawgrass Care Center*, 683 So.2d 609, 613 (Fla. 1st DCA 1996). quoting *State Farm Mutual Automobile Insurance Co. v. Laforet*, 658 So.2d 55, 61 (Fla. 1995). “Statutes that relate only to procedure or remedy generally apply to all pending cases,” but a substantive law that interferes with vested rights will not be applied retrospectively. See *Gupton v. Village Key & Saw Shop, Inc.*, 656 So.2d 475, 477 (Fla. 1995).

Nowhere in the language of the 2007 Amendment to Florida Statute § 943.035(11) (Ch. 2007-209, § 2, Laws of Fla.) does it state that it applies retroactively. Substantive amendments to a statute are legislation which “impairs existing rights” or which attach “new legal consequences to events completed before its enactment” and cannot be applied retroactively. *McMillan* at 1237 (discussing the difference between “substantive” and “procedural” or “remedial” statutes); see also *Basel v. McFarland & Sons, Inc.*, 815 So. 2d 687, 692 (Fla. 5th DCA 2002) (“In the absence of clear legislative intent, a law affecting substantive rights is presumed to apply prospectively[.]”).

While the State argued that this change to F.S. §943.0435 was remedial, “simply because the legislature indicates something is remedial does not necessarily mean it is to be applied retroactively”. *Id.* At 695, citing *State Farm* At 61. If a statute accomplishes a remedial purpose by creating new substantive rights and imposing new legal burdens, the presumption against retroactivity still applies. *Id.* At 695, citing *Metro. Dade County v. Chase Fed. Housing*, 737 So. 2d 494 at 500 (Fla. 1999)

The 2007 Amendment to § 943.035(11) creates “new legal consequences to events completed before its enactment,” in that it increases the minimum period of registration, and subjection to all the obligations and legal disabilities attendant to registration. It also impairs Mr. Grady’s right to petition after twenty (20) years.

While both parties conceded that no Florida District Court of Appeal has ruled on the narrow issue of extending the period before which an individual can petition for removal under F.S. §943.0435, Petitioner has cited to other state’s supreme courts who have dealt with this identical issue. In such cases, courts have determined that the legislature cannot “move the finish line” without a hearing and with no change in circumstances, *Starkey v. Oklahoma Dept. of Corrections*, 305 P. 3d 1004 (Okla. 2013). This Court agrees that the State cannot retroactively increase the mandatory minimum period of registration without running afoul of Constitutional protections.


To that point, Petitioner has also provided the Court with numerous decisions from other Florida Circuit Courts, as well as cited to decisions from appellate courts in other jurisdictions, where retroactive application of certain provisions of sex offender registration requirements have been found to violate both federal and state constitutional provisions. Specifically, Petitioner has cited to; *State v. Letalien*, 985 A.2d 4 – Maine Supreme Court (2009); *Com. v. Baker*, 295 S.W.3d 437 – Supreme Court of Kentucky (2009); *Riley v. New Jersey State Parole Bd.*, 219 N.J. 270 – New Jersey (2014); *Does #1-5 v. Snyder*, 834 F.3d 696 – United States Court of Appeals for the Sixth Circuit (2016), *Commonwealth v. Muniz*, 164 A.3d 1189 – Pennsylvania Supreme Court (2017). *State v. Williams*, 129 Ohio St. 3d 344 – Ohio Supreme Court (2011); *Doe v. State*, 189 P.3d 999 – Alaska Supreme Court (2008); *Wallace v. State*, 905 N.E.2d 371 – Indiana Supreme Court (2009); *State v. Pollard*, 908 N.E.2d 1145 –Indiana Supreme Court (2009); *Gonzalez v.*

*State*, 980 N.E.2d 312 – Indiana Supreme Court (2013) (Ind.2013) *Doe v. State*, 167 N.H. 382 - New Hampshire Supreme Court (2015); *In the Matter of Registrant J.D.F.* (A-24-20) – New Jersey Supreme Court (August 9, 2021). The Court finds the weight of these cases to be persuasive.

Having considered Mr. Grady's Petition, hearing the arguments from both Counsel for the Petitioner and the State, having reviewed the applicable law, and the Court being otherwise fully advised in the premises, the Court finds the 2007 Amendment to F.S. §943.0435 is a substantive change which cannot be applied retroactively against Petitioner, who was placed on the sex offender registry prior to its enactment. Accordingly, it is hereby:

ORDERED that the Petition be GRANTED, and that Michael Patrick Grady is no longer required to comply with the requirements for registration as a sexual offender.

DONE AND ORDERED on 27<sup>th</sup> January, 2022.

  
Hon. Judge Tanya Davis Wilson  
Circuit Court Judge

## **ATTACHMENT 3**

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA

CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA,

v.

JEFFREY M. SEBRING,  
\_\_\_\_\_ /

CASE NO. 1998-CF-000423

**ORDER GRANTING AMENDED PETITION FOR REMOVAL OF THE  
REQUIREMENT TO REGISTER AS A SEXUAL OFFENDER IN  
THE STATE OF FLORIDA, PURSUANT TO §943.0435(11)**

THIS MATTER came before the Court on Jeffrey M. Sebring's Amended<sup>1</sup> Petition for Removal from Florida's Sexual Offender Registry and finding that the State Attorney has been given notice of the petition at least 3 weeks before the hearing on this matter and having considered the Petition, hearing the positions of both Parties, who were present, and the Court otherwise being fully advised in the premises, the Court finds the following:

1. This Court has proper jurisdiction to consider the instant petition.
2. Mr. Sebring petitioned the Court for Removal from Florida's Sexual Offender Registry pursuant to Florida Statutes §943.0435 (11) (1998), which provides that after being released from all sanction for at least twenty (20) years and not having been arrested for any other felony or misdemeanor, an individual may petition ; "the criminal division of the circuit court of the circuit

<sup>1</sup> The Petition was Amended solely to correct a scrivener's error in paragraph 4, where the year 2022 was corrected to 2002. This issue was raised by the State at the Hearing and recognized to be an unintentional mistake when typing the petition. The year Petitioner completed all sanctions was clarified at the hearing and the evidence of when he completed all sanctions is otherwise clear from the Exhibit attached to the Petition.

in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender."

3. Mr. Sebring's obligation to register as a sexual offender arises from a 1997 offense for which adjudication was withheld, and for which Mr. Sebring was sentenced to 8 months in county jail, followed by 3 years' probation, 2 years of which were to be under community control. Both community control and probation were terminated early.

4. Mr. Sebring's probation was terminated on January 16, 2002. The record supports that he has had no arrests since then.

5. Although the Statute was amended in 2007 to require 25 years instead of 20, this Court finds that the 2007 amendment does not apply retroactively, and we concern ourselves with the prior version of the Statute that required 20 years. Accordingly, Mr. Sebring qualifies to petition for relief.

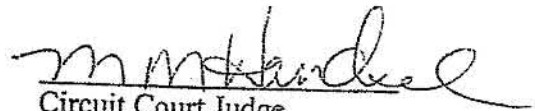
6. Finally, this Court finds that Mr. Sebring is not a current or potential threat to public safety. Mr. Sebring successfully completed probation and has been free from any sanction imposed by his conviction for more than twenty (20) years without any arrests during that time. Mr. Sebring's petition states that he has a strong and supportive network of family and friends. Many of his friends have been with him through the underlying offense more than two dozen years ago and remain close with him today. Mr. Sebring has been continuously employed since his release with no gaps in employment. And, Mr. Sebring is engaged to the same person he has been with for more than 11 years. Social support, absence of criminal history, educational, employment, and housing stability are mitigating factors to risk. The State did not present evidence to controvert this finding.

Accordingly, it is



ORDERED AND ADJUDGED that the Amended Petition be GRANTED and that Jeffrey M. Sebring's requirement to register as a Sexual Offender in the State of Florida is hereby removed. The Florida Department of Law Enforcement is directed to remove Mr. Sebring from the registry.

DONE AND ORDERED in Pasco County, Florida on March 9, 2022.

  
Circuit Court Judge

ORIGINAL SIGNED

MAR 09 2022

MARY HANDSEL  
Circuit Judge

IN THE CIRCUIT COURT FOR THE 17TH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA IN AND FOR BROWARD COUNTY

STATE OF FLORIDA,

CASE NO: 95-12511CF10A  
JUDGE: ANDREW L. SIEGEL

vs.

ALAN LAWRENCE RAWISZER  
DEFENDANT

ORDER GRANTING MOTION FOR REMOVAL  
FROM FLORIDA'S SEXUAL OFFENDER REGISTRY

THIS CAUSE, having come before the Court on January 30, 2020 upon the Defendant, Alan Lawrence Rawiszer's, Motion for Removal of Sexual Offender Registration Requirement, pursuant to Florida Statute 943.0435(11) (1998) and the Court having heard argument of counsel for the Defendant, having heard argument of counsel for the State, having reviewed the applicable law, and otherwise being duly advised in the premises, finds:

1. This Court has jurisdiction to hear the instant Motion as the Defendant resides in Broward County, Florida where the adjudication occurred.
2. The Office of the State Attorney for the 17<sup>th</sup> Judicial Circuit was given notice of the motion at least 3 weeks before the hearing and did appear at the hearing on this matter.
3. The Defendant completed all sanctions as of April 26, 1999 and been lawfully released from confinement, supervision, or sanction for at least twenty (20) years.
4. The Defendant has not been arrested for any felony or misdemeanor since release since completion of sanctions.

\*\*\* FILED: BROWARD COUNTY, FL BRENDA D. FORMAN, CLERK 05/27/2021 11:26:43 AM.\*\*\*



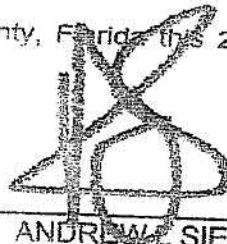
Unique Case : CAA-FAA-BCABB-FAFFCBHI-CAHFHE-A Page 1 of 3

5. That the requested relief comports with requirements applicable to the removal of registration.

ACCORDINGLY, it is ORDERED and ADJUDGED the Defendant, Alan Lawrence Rawiszer's Motion for Removal of Sexual Offender Registration Requirement is GRANTED.

The Defendant, Alan Lawrence Rawiszer shall no longer required to comply with the requirements for registration as a sexual offender set forth in Florida Statute §943.0435 (1998).

DONE AND ORDERED in Broward County, Florida this 26<sup>th</sup> day of May, 2021.



ANDREW SIEGEL  
CIRCUIT COURT JUDGE

cc:  
Amanda Graham, Esq. Office of the State Attorney  
Ron M. Kleiner, Esq. Counsel for Defendant  
Florida Department of Law Enforcement

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**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

**CRIMINAL JUSTICE DIVISION**

STATE OF FLORIDA

CASE NO. 93-013596CF10A

vs.

ARTHUR WALKER  
\_\_\_\_\_

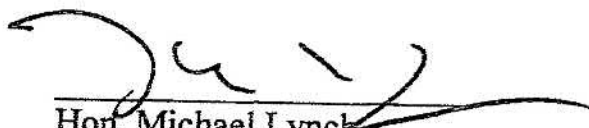
Filed In Open Court  
CLERK OF THE CIRCUIT COURT  
ON MAY 09 2019  
BY \_\_\_\_\_

**ORDER GRANTING PETITION FOR REMOVAL  
FROM FLORIDA'S SEXUAL OFFENDER REGISTRY**

THIS MATTER came before the Court on Arthur Walker's Petition for Removal from Florida's Sexual Offender Registry and finding that the State Attorney has been given notice of the petition at least 3 weeks before the hearing on this matter and having considered the Petition, hearing the arguments from both Parties and the Court being fully advised in the premises, it is hereby:

ORDERED that the Petition be GRANTED, and that Arthur Walker is no longer required to comply with the requirements for registration as a sexual offender.

DONE AND ORDERED in Open Court in Broward County, Florida this 9<sup>th</sup> Day of May 2019.

  
\_\_\_\_\_  
Hon. Michael Lynch  
Circuit Court Judge

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO. 93-007413

v.

CHARLES STEELE

---

**ORDER GRANTING PETITION FOR REMOVAL FROM  
FLORIDA'S SEX OFFENDER REGISTRY PURSUANT TO §943.0435(11)**

THIS MATTER came before the Court on Charles Steele's Petition for Removal from Florida's Sexual Offender Registry.

Petitioner resides in Broward County, and as such, this Court has proper jurisdiction to hear the instant Petition.

Petitioner's obligation to register as a sexual offender arises from a 1994 conviction for a sexual offense, for which Petitioner was sentenced to three (3) years six (6) months incarceration, followed by five (5) years' Probation. Mr. Steele completed probation on May 12, 2001. Petitioner has no subsequent arrests.

Florida Statutes §943.0435 (11) (2001) affords persons required to register as sexual offenders the opportunity to petition the criminal division of the circuit court for the purpose of removing the requirement to register as a sexual offender, twenty

(20) years after such person has been lawfully released from confinement, supervision, or sanction, whichever is later, and such person has not had any arrests during that time.

Although Florida Statutes §943.0435 (11) was subsequently amended six years later to require twenty-five (25) years before persons required to register may petition for removal of the requirement to register, Petitioner seeks removal pursuant to the provision of the statute in effect at the time he was released from probation in 2001.

F.S. §943.0435 (11) further requires that the State Attorney in the circuit in which the petition is filed be given notice of the petition at least 3 weeks before the hearing on the matter. The State Attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. The Court finds that the State Attorney has been given notice of the petition at least 3 weeks before the hearing on this matter.

The State Attorney opposed Petitioner's Petition, arguing that the 2007 amendment to F.S. §943.0435 (11) which extended the period of time after which a person may petition for removal, applies retroactively. The Court disagrees.

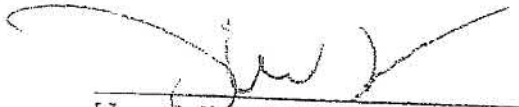
Over the State's objection, this Court finds that the twenty (20) year requirement applies to Mr. Steele, and not the twenty-five (25) year requirement. After hearing argument on this issue and considering the case law, the Court finds

that the 2007 amendment moving the finish line is punitive in nature and not just procedural. Therefore, retroactively extending the period of time after which Mr. Steele could petition for removal from the sex offender registry violates this State's prohibition on ex-post-facto laws.

Having considered Mr. Steele's Petition, hearing the arguments from both Counsel for the Petitioner and the State, having reviewed the applicable law, and the Court being otherwise fully advised in the premises, it is hereby:

ORDERED that the Petition be GRANTED, and that Charles Steele is no longer required to comply with the requirements for registration as a sexual offender.

DONE AND ORDERED on July 27, 2021.

  
\_\_\_\_\_  
Hon. Michael Lynch  
Circuit Court Judge

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
IN AND FOR ESCAMBIA COUNTY, FLORIDA

CIVIL DIVISION

PAUL JOHN HAMLIN

CASE NO: 2019-CA-001926

Plaintiff/Petitioner,

v.

**RICHARD L. SWEARINGEN**, in his  
official capacity as the Commissioner  
of the **FLORIDA DEPARTMENT OF  
LAW ENFORCEMENT (FDLE)**, and  
**THE STATE OF FLORIDA**

Defendants/Respondent.

---

**ORDER GRANTING PETITION FOR REMOVAL OF  
THE REQUIREMENT TO REGISTER AS A  
SEXUAL OFFENDER IN THE STATE OF FLORIDA**

THIS MATTER came before the Court on Petitioner, PAUL JOHN HAMLIN'S, Petition for Removal from the Requirement to Register as a Sex Offender in the State of Florida pursuant to Florida Statute 943.0435(11)(1998), and having considered the Petition, hearing the arguments from both Parties, and the Court being fully advised in the premises, the Court finds as follows:



1. The Court has jurisdiction over this matter.<sup>1</sup>
2. The Petitioner resides in Escambia County, Florida, as such, this circuit is the appropriate circuit in which to bring this action.
3. The state attorney in this circuit has been given notice of the petition at least 3 weeks before the hearing on the matter.
4. The Florida Department of Law Enforcement (FDLE) is not required to be given notice of the Petition and is only a party to the proceeding for purposes of the injunction enjoining the placement of Petitioner on the Florida sex offender registry.
5. The Petitioner has been lawfully released from confinement, supervision, or sanction for a period of at least twenty (20) years.
6. The defendant has not been arrested for any felony or misdemeanor since release.
7. The requested relief complies with both state and federal standards applicable to the removal of registration requirements.
8. Based on the stipulation of the State of Florida, represented by Glen Hess, the special prosecutor assigned to this case, and Ron Kleiner, counsel for the Petitioner, the Court is satisfied that Mr. Hamlin does not present a current or potential threat to public safety.

WHEREFORE, based on the Petition and the evidence presented to the Court, it is hereby:

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<sup>1</sup> The genesis for this case is an allegation against Petitioner in California in 1991. Petitioner entered a plea of no contest in California expecting the case to be dismissed upon his successful completion of probation and, importantly, the plea agreement contained no registration requirement in California and the Court did not require such a registration. Petitioner successfully completed probation and a California court dismissed the case in 1997. Prior to Florida's registration statutes enactment.

**ORDERED and ADJUDGED** that the Petition is **GRANTED**, and equity and justice requires that **PAUL JOHN HAMLIN** is not required to register as a sexual offender in the State of Florida, nor does Mr. Hamlin have any duty to comply with the requirements for registration as a sexual offender in the State of Florida.

**IT IS ALSO ORDERED** that Defendant **FDLE**, its officers, agents, representatives, affiliates, employees, attorneys, or anyone under the control of **FDLE** are permanently **ENJOINED** from placing Petitioner on the Florida sex offender registry or taking any action that would cause another individual or agency to cause the arrest of Petitioner for failure to register as a sexual offender in the State of Florida.

**IT IS FURTHER ORDERED** that the Clerk seal this case file in accordance with Rule 2.420(c), Florida Rules of Judicial Administration.

**DONE AND ORDERED** in chambers in Escambia County, Florida this \_\_\_\_\_ Day of \_\_\_\_\_, 2020.

  
eSigned by CIRCUIT COURT JUDGE GARY L. BERGOSH  
on 05/01/2020 16:34:13 11EtL-ji

**HON. GARY BERGOSH**  
Circuit Court Judge

Copies to:

Counsel of Record

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO.: CF93-001505-XX

WILLIAM ALAN EICHER,

Defendant.

---

**ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S  
PETITION FOR REMOVAL FROM FLORIDA'S SEX OFFENDER REGISTRY**

THIS MATTER has come before the Court upon Defendant's *Petition for Removal From Florida's Sex Offender Registry Pursuant to §943.0435(11)* (Petition) filed on September 9, 2019. A hearing on the motion was held on January 23, 2020. Upon consideration, the Court finds as follows:

On August 2, 1993, Defendant entered a plea of no contest to the charge of lewd, lascivious, or indecent act upon a child in violation of § 800.04, Fla. Stat. On September 17, 1993, he was sentenced to ten years' probation in accordance with negotiations with the State. Defendant's subsequent motion for termination of probation was granted on July 21, 1999.

The Petition states that Defendant is registered as a sexual offender with the Florida Department of Law Enforcement. The Petition cites § 943.0435(11), Fla. Stat. (1998), which allows an individual who has been released from all sanctions for at least 20 years and has not since been arrested for either a felony or a misdemeanor to petition the court for removal of the sexual offender registration requirement. Attached to the Petition is a signed affidavit from the victim in the case, who indicates that she does not oppose the Petition. Defendant advises further that since his release from the above-styled case, he was arrested in 2001 for an unrelated offense for which he received only a fine in January 2022.

In 2007, § 943.0435(11) was amended, extending the time that must elapse before a petition can be considered from 20 years to 25 years. That is one of two issues the parties contested at the hearing; the other is whether the nature of the original offense renders Defendant ineligible for removal from the registry.

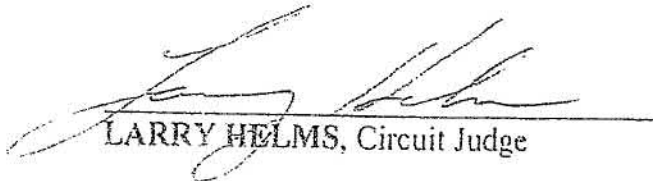
The Court finds that the 2007 amendment to § 943.0435(11) is punitive in nature. Therefore, in accordance with cases cited by Defendant, Starkey v. Oklahoma Department of Corrections, 305 P. 3d 1004 (Supreme Court of Oklahoma 2013), In the Matter of Aaron Evans Hamilton, No. COA11-1463 (N. Car. Ct. of Appeals 2012), and State v. Williams, 129 Ohio St. 3d 344 (Ohio 2011), the amendment does not apply retroactively.

The Court also finds that Defendant's original offense is not among those listed in § 943.0435(11)(a)1.. and does not bar him from seeking the requested relief.

Defendant's 2002 sentencing for the battery, however, renders him statutorily ineligible to petition for removal from the registry at this time.

It is therefore **ORDERED AND ADJUDGED** that Defendant's Petition is **DENIED WITHOUT PREJUDICE**. So long as Defendant remains arrest-free, Defendant may re-petition for removal from the sexual offender registry after twenty years have passed since his January 2002, conviction. At that time, the Court will reconsider the petition.

**DONE AND ORDERED** in Bartow, Polk County, Florida this 23 day of November, 2020.

  
LARRY HELMS, Circuit Judge

Copies furnished to:

- Ron M. Kleiner, Esq., Courthouse Center, Penthouse One, 40 N.W. 3rd Street, Miami, FL 33128
- Victoria J. Avalon, Esq., Assistant State Attorney

LH/jmp

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
IN AND FOR ESCAMBIA COUNTY, FLORIDA

CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO. 95 CF 004231 A

vs.

KEITH EVERETT MERRITT

---

**ORDER GRANTING PETITION FOR REMOVAL FROM  
FLORIDA'S SEXUAL OFFENDER REGISTRY**

THIS MATTER came before the Court on Keith Everett Merritt's Petition for Removal from Florida's Sexual Offender Registry.

The Petitioner is obligated to register as a sexual offender because of an offense that took place in 1995. Specifically, on March 27, 1996, Mr. Merritt plead guilty to "Promote Sexual Activity of Victim Less Than 16 Years of Age", a violation of Florida Statutes §800.04(4)(b), for which Adjudication was Withheld by this Court and he was sentenced to 1-year community control and 2 years' probation.

In March of 1999, Mr. Merritt's sanctions terminated, and he has now been released from all sanctions relating to his sexual offense for more than twenty (20) years.

Florida Statutes §943.0435 (11) (1998) provides that after being released from all sanction for at least twenty (20) years and not having been arrested for any other felony or misdemeanor, an individual may petition the criminal division of the circuit court for the purpose of removing the requirement to register as a sexual offender.

Petitioner now seeks removal from Florida's sexual offender registry pursuant to this provision of the statute.

Petitioner resides in Escambia County, Escambia County is where the adjudication occurred, as such, this Court has proper jurisdiction to hear the instant Petition.

F.S. §943.0435 (11) further requires that the State Attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The State Attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.


The Court finds that the State Attorney has been given notice of the petition at least 3 weeks before the hearing on this matter and had asked for the opinion of the victim in the underlying 1995 case to be taken into consideration.

An Affidavit from the victim was submitted to the Court and to the State Attorney indicating that she fully supports the Petitioner's removal from the Florida sex offender registry and has no objection or reservation to his removal.

Having considered Mr. Merritt's Petition, the Affidavit from the victim, hearing the arguments from both Counsel for the Petitioner and the State and the Court being fully advised in the premises, it is hereby:

ORDERED that the Petition be GRANTED, and that Keith Everett Merritt is no longer required to comply with the requirements for registration as a sexual offender.

DONE AND ORDERED on \_\_\_\_\_, 2019.

  
Signed by CIRCUIT COURT JUDGE W. JOEL BOLES (1995 CF 004237 A  
FD 07/05/2019 10:24:24 162V60H)  
\_\_\_\_\_  
Circuit Court Judge