

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

STATE OF SOUTH CAROLINA)

v.)

David Glenn Browder,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
OF THE TWELFTH JUDICIAL CIRCUIT

Consent Order Removing David Glenn
Browder from the Sex Offender Registry

FILED
2008 MAR -7 AM 11:33
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

This matter comes before me upon petition by David Glenn Browder, requesting an Order removing him from the sex offender registry, and by consent of the Twelfth Judicial Circuit Solicitor's Office. I hereby order that David Glenn Browder be removed from the sex offender registry, and I find that at this time there is no requirement for David Glenn Browder to register as a sex offender, based on the following findings of fact and conclusions of law:

David Glenn Browder has a 1980 violation of Article 3, Chapter 15
of Title 16 which does not involve a minor

On June 2, 1980 David Glenn Browder pled guilty in Florence County to dissemination of obscene materials and was sentenced to a fine and two years probation. The presiding Judge was the Honorable Frank Eppes. Mr. Browder was charged with this offense because he worked as a clerk at Airport News, an adult bookstore in Florence County.

No minors were employed at Airport News. The materials which were distributed did not contain depictions of minors. All videos stated on the cover that the actors were eighteen years of age or older and that records were on file. Materials were not distributed to minors. There was a sign on the door of the bookstore which stated individuals must be twenty years of age or older to enter, and every person who made a purchase was required to show ID. No allegation was made and no evidence was presented of any involvement of minors.

Mr. Browder was ordered to register as a sex offender following
a subsequent plea to Driving Under the Influence

On September 25, 1995 Mr. Browder pled guilty in Florence County to driving under the

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Clerk of Court
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FLORENCE COUNTY, S.C.

influence second offense, indictment number 95-1044. The prosecutor was W. Harry Conner, Jr., and the presiding judge was the Honorable James E. Lockemy. Mr. Browder was sentenced to a fine and two years probation, and Judge Lockemy apparently ordered that Mr. Browder register as a sex offender as a consequence of his 1980 conviction for dissemination of obscene materials.

The court reporter has been contacted, and there is no transcript available from July 31, 1995. The sentence sheet for this conviction contains no reference to the requirement of registration as a sex offender.

Mr. Browder was instructed by the Florence County Sheriff's Department to register as a sex offender pursuant to Judge Lockemy's order. However, Mr. Browder contacted the South Carolina Law Enforcement Division, and was instructed not to register because he did not have a conviction for a registerable offense. Mr. Browder did not register as a sex offender at that time.

Mr. Browder was charged with failure to register as a sex offender

In 2006, Mr. Browder was arrested and charged with failure to register as a sex offender, indictment number 07-713. This charge was subsequently dismissed by the Twelfth Judicial Circuit Solicitor's Office on April 27, 2007, because Mr. Browder does not have a conviction for a registerable offense. The prosecutor was Robert N. Wells, Jr. Following the dismissal of the charge, Mr. Browder was informed by the Florence County Sheriff's Department that he was still required to register as a sex offender, pursuant to Judge Lockemy's 1995 order, and that he would be re-arrested if he did not comply.

At this time, Mr. Browder registered as a sex offender, and is currently on the registry despite having no convictions for a registerable offense. His photograph and his address are posted on the internet, which is affecting his relations with family and neighbors, and has affected his ability to maintain employment.

Dissemination of obscene material is not a conviction that requires
registration as a sex offender

South Carolina Code § 22-3-430(C) enumerates the offenses for which a conviction

results in registration as a sex offender. § 22-3-430(C)(13) includes in this list "violations of Article 3, Chapter 15 of Title 16 *involving a minor.*" (Italics added). Although the offense to which David Browder pled guilty in 1980 was a violation of Article 3, Chapter 15 of Title 16, the offense did not involve a minor, there was no allegation that the offense involved a minor, and no evidence was presented to indicate that the offense involved a minor. Under the plain, unequivocal meaning of the statute, Mr. Browder is not required to register as a sex offender.

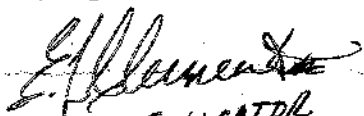
Conclusion

Mr. Browder could not be required by the Court to register as a sex offender as part of the sentence for a driving under the influence second offense and regardless, the 1995 sentence sheet does not reflect that registration was a part of that sentence. The Court also cannot order Mr. Browder to register as a sex offender for a conviction that is not enumerated in the statute.

I hereby find that there is no requirement for David Glenn Browder to register as a sex offender as a consequence of his 1980 dissemination conviction, and order that he be removed from the sex offender registry immediately.

IT IS SO ORDERED.

I CONSENT:



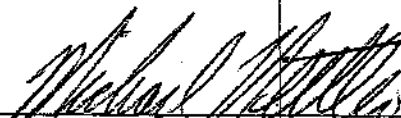
SOLICITOR

12TH JUDICIAL CIRCUIT

March 3
February, 2008.

I So MOVE:


Bobby G. Frederick
attorney for the Defendant


Judge, Twelfth Judicial Circuit