

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

Edward Eliot Kramer, :
 : Case Number 2018CV300097
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 Petitioner, :
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 v. :
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 :
 Sexual Offender Registration :
 Review Board, :
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 Respondent. :
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VERIFIED PETITION FOR JUDICIAL REVIEW

Petitioner EDWARD ELIOT KRAMER, through undersigned counsel, files this Petition for Judicial Review of a final decision of the Sexual Offender Registration Review Board (“SORRB”), classifying him as a “Sexually Dangerous Predator.” In support of this Petition, which is founded on O.C.G.A. § 42-1-14(c), Petitioner states as follows:

1. The SORRB informed Petitioner in a letter dated December 15, 2017, that it had assigned him a Risk Assessment Classification (“RAC”) of “Sexually Dangerous Predator.” This is the highest among three RACs available to the SORRB, suggesting the greatest perceived likelihood of sexually reoffending. (*See Ex. A, SORRB Letter, Ex. B, Richard Vandever SORRB Bio*).
2. The filing of this Petition for Judicial Review is timely as it is being filed “within 30 days of the date of the notification letter.” O.C.G.A. § 42-1-14(c).

3. The sentence, which placed him on the Sex Offender Registry, stems from a plea entered pursuant to *North Carolina v. Alford* on December 2, 2013, presented by the State prior to jury selection in the Gwinnett County Superior Court, Judge Karen E. Beyers presiding, case number 03-B-03561-5 (earlier indictment 00-B-03771-5). Notwithstanding, Petitioner's counsel presented on record during the hearing that Petitioner maintains his innocence on all charges, and no evidence was placed on record by the Gwinnett County District Attorney's Office or Court to deem otherwise.

4. Petitioner was sentenced under the Georgia First Offender Act on three counts of child molestation and was given an aggregate sentence of 20 years with five to serve in home confinement. Additionally, Petitioner was ordered to pay the District Attorney's Office the sum of \$100,000 for each of the three declared victims, for a total of \$300,000. However, no evidence was placed before the Court as to why or how the State determined the amount of restitution to the declared victims, or even that the declared victims suffered any damage or loss at all.

5. Petitioner maintains his innocence, as he has steadfastly and unwaveringly done since his arrest on August 25, 2000.

6. On October 22, 2014, Petitioner filed a verified petition for a writ of habeas corpus in the Gwinnett County Superior Court, civil action number 14A-09558-5.

7. The habeas action was directly (not randomly) assigned to Judge Karen E. Beyers, due to its relation to the underlying criminal case it challenges.

8. On October 24, 2014, Petitioner filed a motion for the recusal of the entire Gwinnett Judicial Circuit, along with the Gwinnett District Attorney's office, from involvement in the Petition.

9. The Gwinnett District Attorney's Office was disqualified in its entirety under *McLaughlin v. Payne*, 761 S.E.2d 289 (Ga. 2014), because District Attorney Daniel J. Porter, and his office, are witnesses in the habeas action. Accordingly, the Georgia Attorney General's Office entered into the habeas action *pro tempore* as counsel for the Respondent. Nonetheless, District Attorney Daniel J. Porter has continued to make prejudicial public statements against Petitioner in the local media. (See *Atlanta Journal Constitution*, November 13, 2014, "The only way it will die is he'll [Kramer] have to die or I'll have to die...").

10. Judge Beyers, initially refusing to withdraw, then recused herself on November 14, 2014, with the entire Gwinnett Judicial Circuit following suit over the course of the next six weeks.

11. The habeas action was assigned to Senior Judge Robert W. Adamson on January 9, 2015, and remains pending as Petitioner continues to challenge his conviction and sentence. (Ex. C, *Assignment Order*).

12. Petitioner is aggrieved by the SORRB's decision of December 15, 2017, more than four years following his plea. Among the consequences of being designated a Sexually Dangerous Predator is the statutory obligation to wear an electronic monitoring system, such as an ankle monitor, "for the remainder of [one's]...natural life" O.C.G.A. § 42-1-14(e). This requirement substantially interferes with Petitioner's liberty and, coupled with the RAC's extreme stigma and detriment to current and future employment opportunities, violates Petitioner's constitutional and statutory rights.

GROUND ONE

THE SORRB'S DECISION VIOLATES

CONSTITUTIONAL OR STATUTORY PROVISIONS, O.C.G.A. § 50-13-19(H)(1)

13. Petitioner hereby incorporates all paragraphs of this Petition into this Ground by specific reference.

14. The SORRB consisted of an individual, Richard Vandever, who is senior attorney in the Gwinnett County District Attorney's office. (*See Ex. A, SORRB Letter; Ex. B, Richard Vandever SORRB Bio*).

15. The Gwinnett County District Attorney's Office is recused, in its entirety, from Petitioner's habeas corpus action challenging his underlying conviction and sentence in Gwinnett County Superior Court.

16. Mr. Vandever's failure to recuse himself from Petitioner's case, and his subsequent participation in the RAC, was a direct action to further restrain Petitioner's liberty.

17. This action from someone who was disqualified from Petitioner's habeas action—challenging the underlying restraint on his liberty—was highly inappropriate and certainly violative of Georgia statutory law and the due process clauses of both the federal and the State constitutions.

GROUND TWO

THE SORRB'S DECISION IS IN EXCESS OF

STATUTORY AUTHORITY, O.C.G.A. § 50-13-19(H)(2)

18. Petitioner hereby incorporates all paragraphs of this Petition into this Ground by specific reference.

19. The SORRB's decision is in excess of statutory authority because it included a SORRB Member, Richard Vandever, who had been disqualified from Petitioner's underlying habeas action. Ground One, *supra*.

GROUND THREE

THE SORRB'S DECISION HAS BEEN MADE UPON

UNLAWFUL PROCEDURE, O.C.G.A. § 50-13-19(H)(3)

20. Petitioner hereby incorporates all paragraphs of this Petition into this Ground by specific reference.

21. The SORRB's decision is made upon unlawful procedure because it included a SORRB Member, Richard Vandever, who had been disqualified from Petitioner's underlying habeas action. Ground One, *supra*.

GROUND FOUR

THE SORRB'S DECISION IS AFFECTED BY OTHER

LEGAL ERRORS, O.C.G.A. § 50-13-19(H)(4)

22. Petitioner hereby incorporates all paragraphs of this Petition into this Ground by specific reference.

23. The SORRB's decision is illegal because it included a SORRB Member, Richard Vandever, who had been disqualified from Petitioner's underlying habeas action. Ground One, *supra*.

GROUND FIVE

THE SORRB'S DECISION IS ERRONEOUS IN VIEW OF RELIABLE, PROBATIVE, AND

SUBSTANTIVE EVIDENCE ON THE WHOLE RECORD. O.C.G.A. § 50-13-19(H)(5)

24. Petitioner hereby incorporates all paragraphs of this Petition into this Ground by specific reference.

25. The SORRB's decision is arbitrary and capricious and is characterized by abuse of discretion or clearly unwarranted exercise of discretion, as it included a SORRB Member, Richard Vandever, who had been disqualified from Petitioner's underlying habeas action. Ground One, *supra*.