THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM ANDERSON COUNTY
Court Of Common Pleas, 04th Judicial Circuit

J.C. Nicholson, Circuit Court Judge

Appellant Case No: 2013-000879

State Of South Carolina.....Respondent,

v.

William Deans.....Appellant.

INITIAL BRIEF OF APPELLANT

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SC Court of Appeals

TABLE OF CONTENTS AND CASES

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STATEMENT OF ISSUES ON APPEAL

1. DOES / DID THE COURT HAVE BOTH SUBJECT MATTER JURISDICTION AND JURISDICTION OVER THE PERSON TO CONTINUE CIVIL COMITTMENT

2. DID THE COURT ERR BY NOT HAVING A ANNUAL REVIEW HEARING

3. DID THE COURT ERR BY NOT ALLOWING APPELLANT TO CONTEST STATES WITNESS / SOUTH CAROLINA CODE OF LAW 44-48-110, 2012 ANNUAL REVIEW REPORT, DENYING APPELLANT THE RIGHT TO CONFRONT THE WITNESSES AGAINST HIM.

   IN/ALT/ DID THE COURT ERR IN GIVING THE STATES SCC ANN. 44-48-110 EXPERT WITNESS ABSOLUTE DEFERENCE, IN DENYING APPELLANT THE RIGHT TO CONFRONT THE WITNESSES AGAINST HIM.

STATEMENT OF CASE

note: Appellant can not provide a transcript of record, due to being indigent, Appellant did motion this Court to approve funds for a transcript, or to order the Appellant Defense tom Pay for a transcript, this Court has of this date May 20 ,2013 not made a reply ruling.

1. DOES / DID THE COURT HAVE BOTH SUBJECT MATTER JURISDICTION AND JURISDICTION OVER THE PERSON TO CONTINUE CIVIL COMMITMENT

This matter arose, when at 2/13/13 presumed SCC Ann. 44-48-110 Annual Review Hearing, His Honor J.C Nicholson opened by first reading the States experts Annual Review Report, ie: Dr. Domino, of 121212.

When allowed to speak, Appellant stated he had a number of unaddressed motions before the Court, being a Motion To Schedule a Evidentiary Hearing, and a Motion

The Court stated it was not hearing any such motions, that this was an Annual Review Hearing only.

Appellant stated he challenged the jurisdiction of the court based upon an Order Of Dismissal Of This Case that was issued past the SCRCP statute of limitations in SCRCP R 59 (d).

The Court again stated it was not hearing any such challenges, that this was an Annual Review Hearing only.

Appellant: "I requested for a Status Of Case Review, The law says I can have one, and I demand a Status Review Hearing.

"""You [Judge Nicholson] caused this mess by violating the rules of civil procedure and I think you should be the one to straighten it out. Court: allowed Appellant to continue speaking
Appellant:
1. "Your Honor signed a Order of Dismissal on Oct. 30. 2002, which filed on Oct 31, 2002, then on Nov. 7, 2002 you signed a Order Of With drawl Of the Order Of Dismissal,

2. I am being held in civil commitment with out treatment, where they (SCDMH) is refusing treatment demanding that I admit guilt to out of State, Dismissed criminal charges and un-charged allegations.

The Court inquired into this issue of the State, being represented by Assist. Attorney General, Mr. Flores, Who basically argued or inferred, that yes this is true, that it was important for being a treatment issue.

The Court then stated that to require Appellant to admit guilt to dismissed and un-charged allegations was in violation of Appellants 5th Amendment rights.

3. The Court then stated after reading the 2012 Dr. Domino (SCC Ann. 44-48-110 Annual Review Report that concluded that Appellant had not so changed to be released and thus Appellants request for
a) a defense expert be appointed,
b) and, Annual Review (trial) be denied.

4. Appellant then stated that it is a waste of time to appoint a defense expert at this time due to a great deal of the information in the records provided to the experts by the State are wrong or out right false.

That the State is still with holding exculpatory evidence and that Dr. Domino used an evaluation that was a court ordered sealed document that was not allowed to be entered into evidence at the civil commitment trail.

5. The Court asked the State of the claimed with held evidence to which, Mr. Flores said that all documents have been provided to both past lawyers for appellant.

a) Appellant: stated that is not so, and that is why I moved to hold the State and the SCDMH, in contempt of court issued subpoena's ordering [they] produce the with held evidence.

6. The Court as best of Appellant memory at this time with out a transcript for reference, recalls Judge Nicholson starting to read over the 2012, Dr. Domino SCC Ann. 44-48-110 Annual Review Report and saying that since Dr. Domino says that Appellant has not so changed and specially, that Appellant refuse to admit actual guilt and only legal guilt, then there is nothing to talk about.

a) Appellant stated that the States own testing, the Static R99, reports that Appellant is a "0" of ever re-offending, that not even Appellant advisory lawyer "Mr. Senerius / Assistant Attorney General Mr. Flores or even his honor, (Judge Nicholson) could be a "0" on the Staticm R99.

b) Appellant: that 4 experts contradict Dr. Domino's report.

c) The Court then inquired as to why Appellant ha not subpoenaed Dr. Domino to be a witness,
d) Appellant stated he did not know he needed to subpoena Dr. Domino since the States experts always are at these hearings.

e) The State, Mr. Flores stated that they do not have the experts there any longer.

f) The Court admonished Appellant for attempting to defend his own case, that Appellant was not a lawyer.

7. The Court issued it's denial of Annual Review Relief, when it's entire decision was based only on the Dr. Domino 2012 Annual Review Report, and, refused to allow Appellant to speak any further and as argued in the following text by Appellant, that no SCC Ann. 44-48-110 Annual Review hearing was held.

8. The basic chain of events after the denial of 2/13/13 review, by Judge Nicholson,

a) Order denying relief dated 2013 also contained an order enjoining the State and any SCDMH personnel, anyone in connection with this case, including Appellant from discussing any aspects of the out of State dismissed criminal charges and un-charged allegations.

b) SCDMH General Counsel, a Mr. Carter, filed "Motion For Relief From And Stay Of Order.

Whereby said motion to stay admits this case is moot if the State / SCDMH is not allowed to continue interrogation in an attempt to force Appellant into incriminating himself in the dismissed out of State criminal charges and un-charge allegations.

c) Appellant filed an objection to the SCDMH motion to stay.

d) The State filed an Purposed Order Of Denial Of Annual Review.

e) Appellant field a Motion to Deny the State Purposed Order.

f) The Court signed and issued it's Order Of Denial on

g) Appellant filed a SCRCP, Rule 59 Motion To Amend

h) The State served a return to Appellants R 59 motion.

i) Appellant filed a Reply to the States return

j) The Court issued a denial of Appellant's R 59 motion.

ARGUMENT

1. The Court erred and abused it's discretion in refusing to hear Appellants challenge of the Courts lack of both subject matter jurisdiction and jurisdiction over the person,

And like wise, The Court erred in not dismissing this case for the Courts lack of both subject matter jurisdiction and jurisdiction over the person,

(a) see Record on Appeal, Respondant's Exhibit, A, pages 1-2, page A-1, his Honor Judge Nicholson signed a Dismissal of this case on Oct. 30, 2002, and filed Oct. 31,2002,

Appellant's Exhibit A-2, is Order Of With-Drawl of referenced Dismissal of case, dated as signed on Nov. 7, 2002, filed Nov. 12, 2002.

Respondant argues the Courts and the State are without the jurisdiction over the subject matter and this person to continue civil commitment pursuant to South Carolina Rules Civil Procedure, Rule 59 (d) states:

ON INITIATIVE OF COURT. "Not later then 10 days after entry of judgment, the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party."....

SCRCP, Rule 58 (a)(2) ENTRY OF JUDGMENT,

"",,,,,,,A judgment is effective only when so set forth and entered in the record.""

Judge Nicholson's order's (Respondant's Exhibits A 1-2, were "so set forth", and not entered until twelve days apart.

The argument can be understood as two fold,
(1) it was the Courts fault for not having entered the order of With-drawl of Dismissal with in 10 days, not Appellants fault.

(2) Clerk of Court should not have allowed the order of With-drawal be (filed) entered after the 10 day statue of limitations.

Which, in turn has prejudiced this Respondant into being held un-constitutionally for ten years and counting. ie Aug. 22, 2003 to present date of May 20, 2013 and counting.

b) Appellant further argued the Clerk of Court was without the authority and should had never filed the Order Of With Drawl Of Order of Dismissal, Appellants Exhibit A page 2, pursuant to SCRCP, Rule 59 (d) and Rule 58 (a)(2), not to exclude any other rule or authority.

c) Appellant argues that R 58(a)(2) is not just merely directional or administrative, it is a constitutionally mandatory jurisdictional rule for the fact that after the ten day limit of R 59 (d), Rule 58 (a)(2) is devoid of authority, meaning that you can not enter what is not enter able,

SCRCP, Rule 59 (d) says of itself that the rule can only be applied for up to ten days after the last entry.

In another sense, the Judge's signature became void or none authorized,

d) when the clerk of court entered the bogus document (Order of With Drawl), Appellant alleges this raises his burden of proof, when procedurally, it is the Court and State that must prove [it] has the jurisdiction authority to have continued holding Appellant in a de-facto incarceration past his given prison sentence for with out the jurisdiction, as claimed, Appellant is not being held under a legal / binding civil commitment Order.

e) Appellant asserts he has never willfully or other wise in any manner knowingly waived jurisdiction of this issue and Appellants demands for the Court and or the State to prove other wise, by documented evidence and not by merely making a baseless assertion.

f) And, in so many words, the Court is without the authority to have re-written the rules, being R59(d) and R58(a)(2), compare this to that of a separation of powers argument,

In that no where within these two rules are there enabling authorities to allow the Court to circumvent, re-write, invoke more then what the rules mandate.

2. The Court erred by stating in it's Order of Denial Of Annual Review claims that the Court held a, SCC. Ann. 44-48-110 Annual Probable Cause Hearing.

see Record on Appeal, Appellant's Exhibit B Order Of Denial Of Annual Review, specifically: at page

a) Appellant asserts that no SCC Ann. 44-48-110 Probable Cause / Annual Review Hearing was held.

In open Court on 2/13/13, Appellant stated he had filed a demand for a SCC Ann. 44-48-110 "Status Review Of Civil Commitment" hearing prior to a Probable Cause Hearing.

see Record on Appeal, Appellants Exhibit C, SC Dept. Mental Health SCC Ann. 44-48-110 Notice of Annual Review, of at page

SCC Ann. 44-48-10 specifically states "shall,

b) The Court refused to allow Appellant to challenge the validity of Dr. Domino Annual Evaluation report.

c) The Court refused to allow Appellant to present documented evidence that he / the Appellant has so changed to be released from civil commitment.

d) and, see Record on Appeal, Notice Of Right To an SCC Ann. 44-48-110 Annual Review Hearing, Appellant's Exhibit C, page 1, section, and page 4, specifically see Appellants Notice of Reservation of Rights, putting the State and the Court on Notice pursuant to UCC 1-207. of Appellants right to withdraw his signature upon a dishonor or change in purpose of the Notice by either the State or this Court.

e) the Court refused to allow Appellant to speak after Respondant;
#1. challenged subject matter and personal jurisdiction,
#2. Appellant demanded a Status of Civil Commitment Hearing.
After the point where Appellant informed the Court, the State / SCDMH were not providing SVP treatment but were instead forcibly interrogating and demanding Appellant admit guilt to out of State dismissed criminal charge and demanding admission of guilt to un-charged allegations / then the Court refused to allow Appellant to speak.

Appellant asked of the Court, ""So, when and where did a Annual Review Hearing occur when in fact the Court refused to allow Appellant to speak ?

The Court refused to comment, and the record is bear of any exchange of point / counter arguments between Appellant and the prosecution.

On 2/13/2013, the Court refused to allow Respondant to challenge the Courts lack of jurisdiction in violation of SCRCP, 12 (b) which states:

...." A motion making any of these defenses (R12 (b 1-8) shall be made before pleading if a further pleading is permitted"".....

Appellant followed this instruction rule and did make [any] challenges prior to any Annual Review hearing.

3. On 2-13-13, Judge Nicholson erred and abused the discretion of the Court by ruling that since SCDMH Annual Review Report, of 2012, Dr. Domino stated Respondant had not so changed to be released at large,

see Record on Appeal, Appellants Exhibit D, SCDMH Annual Review Report, of 2012, Dr. Domino, at page

and that Respondant had not finished the program, that probable cause was denied to substantiate ordering a release trial be scheduled. ie: 44-48-110.

Respondant argued that 44-48-110 granted Respondant the right to request a "Status of Civil Commitment", before proceeding to a 44-48-110 Annual Review Hearing".

NOTE: The Court refused to have a Status of Civil Commitment hearing and did hear Appellant's complaint of being held for custodial interrogation and then the Court proceeded to rule upon the Dr. Domino, 2012 SCDMH Annual Review Report.

see Record on Appeal Respondant's Exhibit C, SCDMH Annual Examination And Review Hearing Notice of January 03, 2013, page 1 of 3, at subsection (I.) (B) which states, hand written by Respondant.

""I demand a status hearing, WD.

The argument is two fold, being,
[1] the Court refused to have a status of civil commitment hearing and
[2] giving the SCDMH 2012 Annual Review Report of Dr. Domino absolute full and unchallenged deference.

Compare: Sharp v Weston (No. C94-121 WD) Senior District Court Judge William L. Dwyer of the U.S.D.C. for the Western District in Seattle, observed that
(start)
"Defendants argue that the deference to be afforded to decisions based upon accepted professional judgment, practice or standards means that there should be virtually no judicial review, stating:

"No one questions that Dr's. Smith and Seling [SCC's superintendent and clinical director[are qualified professionals exercising their discretion.

The inquiry should end there, 'That is not the law, and such a view would eviscerate any protection of constitutional rights.
The Youngberg standard is intended to prevent a judge from using unguided discretion to balance the individual's liberty interest against the State interest in restraining liberty.' It is not meant to transfer the safeguarding of constitutional rights to mental health professionals.

If mere expression of opinion by a State-employed superintendent or psychologist were deemed conclusive, the constitutional standard would vanish; conditions of confinement would be upheld without scrutiny, and the outcome would depend on who happened to be in charge of a particular program, with no consistency from State to State or even from one institution to another within a State''.
(ends)

a) the foregoing case is not authority and is used only to demonstrate the near identical issue has been raised in other courts and that court did accordingly denied granting expert testimony absolute deference over at least 3 other contradicting experts that Appellant was not allowed to present.

3. Dr. Domino committed two documented acts of professional misconducts.

a) Dr. Domino references an evaluation (by Appellants original defense expert) said evaluation was not allowed / or entered into the record at the original June 2004 civil commitment trail by this Appellant. (by ref: Dr. Berg. 2004 Evaluation)
Dr. Berg bogus evaluation was ordered sealed by the Court, and no order has been issued since June 2004 un-sealing the Dr. Berg report.

In 2007 Dr. Berg admitted she had lied / fixed the evaluation. ie: Deans vs Berg

The State , ie: Assistant Attorney General Mr. Flores un-lawfully and with out a Court order uh-sealing the records knew full well the bogus Berg evaluation was not part of the (Deans) record and deliberately committed a violation of SCAPCR, Rules 407,by providing teh Berg report to Dr. Domino.

b) On Dec. 2, 2011 the Honorable Judge R. Lawton Mcintosh, signed and duly filed an order, commanding that Appellant shall be allowed to electronically record all mental examinations (by the State) of Appellant.

see Record on Appeal, Appellant's Exhibit E, page 1-2

i) On 12/10/ 2012, immediately after Appellant did cassette Tape record, SCC Ann. 44-48-100 evaluation by Dr. Domino of Appellant, Assistant Attorney General Flores by/through PSO Capt Abney did confiscate said cassette tape of this 2012 evaluation and have since refused Appellant access to the tape for transcription or referencing.

ii) At the 2-13-13 hearing before Judge Nicholson, subject of this present appeal, Appellant was unable to present evidence from the cassette tape to dispute Dr. Domino's 2012 evaluation of Appellant.

Appellants argued the Dr. Domino 2012 report should be disqualified for prosecutorial misconduct / where the Attorney Generals Office confiscated the Court ordered Appellant's cassette tape recording of the Dr. Domino evaluation, which denied Appellant that taped evaluation as evidence at the 2-10-13 Annual Review Hearing.

And, Again, at the 2-13-13 Annual Review Hearing the Court erred by not allowing Appellant to enter documented evidence and the documented testimony of States other experts who disagreed with Dr. Domino's opinion.

4. In support of the foregoing, The State has with held until this time the following evidence showing the State has no reason to hold this Appellant other then for interrogation, which is the subject of this Court's Order Enjoining the State from questioning Respondent of out of State dismissed and un-charged alleged crimes.

see Record on Appeal, Appellant's Exhibit F, section One, "SCDMH, SVPP Master "Treatment Plan". dated 10/15/12,

This treatment plan documents the State requiring Appellant to admit guilt ie: in treatment terms, means "Appellant is required to take responsibility for all allegations" being, hearsay, un-charged, dismissed, bogus allegations not even in Appellants proper name.

See Record on Appeal, Appellant's Exhibit G, section Two, is Appellant's "Input",

On 10-15-12, Appellant attended a "Master Treatment Plan" "treatment team interview. This is where a Dr. Gothard advised Appellant to admit guilt to the out of State dismissed charges and un-charged allegations, being it would make Appellant feel better and she did not think the State would bring criminal charges since Appellant was in the SVPTP.
Appellant would show, the date of this SVPTP hearing was held on 10-15-12, The Appellant Exhibit F, section One was not given to Appellant until 12/7/12, to which Appellant produced and gave case-manager Mr. Conyors Exhibit G, section Two a copy before 1/1/13.

On 3/22/13, Mr. Conyors came to Appellant saying they the SVPTP Edisto unit Treatment Team refuse to answer Repondants questions in the referenced "Resident Input SVPTP Master Treatment Plan" ie: Appellants Exhibit G,sec. Two.

Instead, Mr. Conyors asked Appellant to sign off on the plan , no questions allowed,

as noted Appellant did not sign Appellant's Exhibit F sec. one, you will find only Appellants alleged name printed, giving Notice Of UCC 3-501, and Comment: team refused to discuss treatment= plan.

As of this below referenced date, 5/ 20 /13 the State, SVPTP Treatment Team has refused to provide Appellant with a signed copy of Appellant's Exhibit F, sec. One.

5. Judge Nicholson erred in making a conclsuionary presumption by stating that since Appellant had not finished the SVPT Program, that Appellant must stay civilly committed until [he] has finished the program.

The Court erred by raising the Appellant's burden of proof because there is no such thing as finishing the present SVPTP Rockwood Model Program which effectively gives Appellant a life sentence,

To which is ex-post facto civil-civil to the 2004 original Court's findings of Appellant suffered a abnormality or personality disorder based upon the States Petition and to be treated in the 2004 order of civIl commitment to "Congenital Behavioral Modification Program", which changed without a Court order to do so.

Whereby, the present program that Appellant was not civilly committed to ie: Rockwood Model", is a "Observational Behavioral Modification Program".

Which require two different types of civil commitment for being two completely types of treatment whereby by under the Congenital treatment, Appellant was civilly committed to receive therapy with a finalizing 12 step program and near automatically recommended for release, whereby, the de-facto Rockwood Model program has no real beginning nor end, which ironically was approved and implemented under the direction of the Attorney General Office, who claimed before judge Nicholson, that (they) have nothing to do with the SCDMH SVPTP.

The RockWood Model has no bases or is accepted by the general profession in the field of SVP treatment, being in the other 18 other States that have SVP civil commitment and not by the American Physiological / Psychiatrist Association.

6. The Court erred in not applying the new evidence that was submitted to the Court since the 2/13/13 Status Of Civil Commitment hearing, which were it applied by the court would vacate the order of civil commitment and deny further civil commitment.

The testimony given by the State, Mr. Flores is reputed by SCDMH General Counsel, attorney Mr. Carter, who stated in a see Record on Appeal, "Motion For Relief From And Stay Of Order.

see page 2, paragraph 2, entitled RULE 62(b), STAY OF PROCEEDINGS, 7-9,

"Finally, although this form of order (injunction) is capable of repetition in this and other proceedings purportedly arising under the Sexually Violent Predator Act, this particular case may arguably be rendered moot if not immediately stayed.""

Mr. Carter's testimony discredited both Dr. Domino's evaluational and Mr. Flores claim that Appellant has not so changed to be released.

In summary, Mr. Carter testified that with out being able to continue criminal type interrogating of Appellant about dismissed (out of State) charges and un-charged allegations, the State had no more reason to hold Appellant civilly committed.

Either the Court allows the State to continue to violate Appellants 5th Amendment Rights against self incrimination by forced interrogative detention or make this case moot.

see Record on Appeal, Appellant's Exhibit H, at page submitted to Judge Nicholson,

Appellant stated """the case is what it is, being a mess from day one when the State filed it's petition to civilly commit Appellant. see Record On Appeal, Order Of Commitment, signed Judge Maddox, page

The State made three claims,
#1. that Appellant had been convicted of a sexual offense.

#2. that in the commission of the sexual offense, Appellant committed cunnilingus, penetration; falacio, upon a minor child.

#3. that Appellant committed sexual offenses against another child.

The fact is,

(1) yes, Appellant was convicted, and proving it is true that the State could convict a ham sandwich if it wanted to.

(2) that irrefutable evidence which was with held by the State in 1993, was discovered in 2000, medical reports proving it was an impossibility for Appellant to have committed the alleged crimes to which he was convicted of. And, that submitted police reports of said crimes were falsified claims.

Especially to have not committed the alleged acts of cunnilous, penetration, falaico, upon a minor child.

(3) (out of State) charges were dismissed, and all other allegations dismissed as not creditable, due to (other child) admitting she lied. And, (out of State) investigation proves the charging officer, Anderson County SC Sheriff Deputy Gene Sutton falsified her police report.

The SCDMH, Mr. Carter goes so far as to claim Appellant and attorney are designing Appellant's SVP treatment.

Again, it is what it is, which is Mr. Carter just admitted the only reason for civil commitment is to interrogate this Appellant.

The SCDMH, Mr. Carter claims they have an invested interest in continuing the civil commitment of Appellant.

What invested interest it is, Mr. Carter does not say, Appellant would say Mr. Carter is attempting to cover the States rear end after taking 10 years to finally come out and admit the State had no case from day one.

Were this not true then why did the State fix the defense experts testimony, who admitted producing a false examination in order to deny Appellant an expert at the SCC Ann. 44-48-100 trail.

Appellant does not argue or appeal the original order of civil commitment, Appellant would show the claimed evidence relied upon by Dr. Domino is so tainted, it is vertically useless other then to show prosecution over reach.

Mr. Carter, Mr. Flores, the SCDMH, SVPTP, the Judge Nicholson Court of 2/13/13 failed to understand that this case was moot on Nov. 13, 2002, and nothing can be said or done to change that fact.

The Court erred in not granting Appellants request for relief, when Appellant gave Notice Of Violation Of Court Order.

(1) RESPONDANT'S SCRCP, RULE 12 (b), 1, 2, 6) MOTION TO DENY SCDMH MOTION TO INTERVENE, and MOTION FOR RELIEF FROM AND STAY OF ORDER And Notice Of Motion

(2) RESPONDANT MOTION TO MODIFY ORDER OF 2/26/13 ENJOINING THE STATE AND SCDMH FROM INTERROGATING AND REQUIRING RESPONDANT TO ADMIT GUILT IN DISMISSED NC CHARGES INVOLVING X-STEP DAUGHTER.

see conclusion as follows,

Conclusion:

1. Appellant is with reasonable belief when challenged, the burden is upon the Court / the State to prove [it] is with both subject matter jurisdiction and jurisdiction over this person.

Appellant has demanded to be released or for the State to prove it is with the jurisdiction to continue holding Appellant in ex-post facto incarceration.

2. Appellant has shown he was not afforded a 44-48-110 Annual Review Hearing by not being allowed to speak in objection to the States evidence and or in behalf of himself proving he has so changed to be released into society.

3. Appellant has shown the Court erred by giving absolute deferential to the States expert Dr. Domino, who the Court did not even bother to qualify, or to objectively question the experts un-founded conclusions. especially when a major portion of Dr. Domino's evaluation had been enjoined form any further use.

Appellant was not allowed to challenge the States expert reliance upon false, misleading, bogus, information, which included extremely prejudicial information of out of State dismissed charges that the Court after the fact of the State's expert examination was enjoined from referencing that information ever again.

4. Further proving extreme prosecutable misconduct, that the State violated Court ordered 44-48-150, sealed documents by deliberately providing the States present 44-48-110 expert (Dr. Domino 2012) with what has been admitted to by the 2004 44-48-100 Dr. Berg, as falsified 44-48-100 defense experts evaluation of Respondant in 2004.

a) And, the State violated a Court Order granting Appellant the right to electronically record any 44-48-110 evaluations and access to transcribe the recording by confistating the tape recording made of the Dr. Domino evaluation, by reference being the 2012 evaluation.

b) By confiscating the said Dr. Domino 2012 evaluation tape recording, denied Appellant the right to use the tape recording to re-butt the testimony of Dr. Domino before judge Nicholson on 2-13-13.

c) by with holding exculpatory evidence and then the State bare faced false statements in open Court, when the State refused to produce said evidence when ordered to do so by way of Court ordered Subpoena.

5. Appellant argues that he was denied a "Status Of Civil Commitment Hearing", and he was denied a "Annual Review Hearing", 6. Appellant has shown by documented evidence that the SCDMH admits that the only reason [they] are holing Appellant incarcerated past his criminal sentence release from prison date in August 2003, is so that the SCDMH can continue to interrogate Appellant, and demanding that he admit guilt to out of State dismissed charges and un-charged bogus allegations.

7. Appellant argues the Court abused it's discretion by concluding that since Appellant had not finished the program, this constitutes the Courts denial of probable cause for release.

The problem with this ruling is it violates 44-48-110, legislatures intent was that the person should expect to be released if he has so changed to not be a danger to society.

The Court enjoined The State and Dr. Domino a full one half of the States reasoning (claimed evidence) in it's petition to civilly commit Appellant, ie: Petition at page 3, subsection 6.-(a)(2.)(B)(2.)

And, in 2007 The States own expert, Dr. McKey evaluated and then testified in open court that Appellant had a Static R99 score of -0- of ever re-offending.
The standard today is at least 4 on the Static R99 to even qualify for SVP civil commitment.

This raises a paradox, if you can not civility commit Appellant with these extremely low diagnosis in the first place, Then how could the Court find it reasonable to continue holding Appellant.

The other half of the States case has been admitted to as being moot by no other then the SCDMH legal counsel.

That leaves about zero reasoning to continue holding Appellant in civil commitment.

This alone should be enough to apply to this case the jury charge of reasonable doubt as in SC vs Manning, -SC-, being, "Reasonable Doubt is a reason which causes a reasonable person to hesitate.

Removing 99% of the States case should cause hesitation.

What was in 2002 / is not so today, which appears to why and how Dr. Domino reached her flaud evaluation report, Dr. Domino relied almost entirely on 99% dismissed, bogus, discredited, un-founded 10-20 year old 20 level hearsay information.

Judge Nicholson relied on Dr. Domino, who had in turn relied upon 99% dismissed, bogus, discredited, un-founded 10-20 year old her say information.

example: Dr. McKey gave Appellant a Static R99 score of -0-, Dr. Domino gave Appellant a 2, which Dr. Domino obtained from the examination of Appellant by Dr. Harrison.

The problem here is Appellant has never even met Dr. Harrison, never alone allowed her to examine Appellant.
That's ambiguous at the least.

Note:
Appellant who has been granted leave of Court indigent, does not have the funds to purchase a transcript of record, has filed a motion for the Court order payment of the transcript or for the Appellant Defense pay for a transcript.

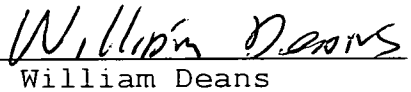
As of this filing, May 2-, 2013 the SC Court of Appeals as has not made a reply or ruling in this matter.

As such, Appellant would reserve the right to Amend Brief on Appeal to include in a Final Appeal Brief references to the transcript should one be provided in a timely manner.

Wherefore, Appellant moves this Court as follows,
1. Order Appellant to be released.

Submitted by,

May, 20, 2012



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PROOF OF SERVICE

I, William Deans, certify that I have served the Initial Brief On Appeal Of Appellant and Disignation of Matter by depositing a copy of it in the United States, postage prepaid by Appeal, on, May. 20, 2013 addressed to Alan Wilson / Nicole T. Wetherton, PO Box 11549, Columbia, SC 29211, at his office on May 20. 21, 2013

May 20 ,2013

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DESIGNATION OF MATTER

TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in teh Record on Appeal

1. Transcript of Record, 2/13/2013 Claimed Annual Review Hearing (note not transcribed at time of filing Initial Brief On Appeal.

2. SCC Ann. 44-48-100 Order Of Civil Commitment

3. Order Of Dismissal of Case, filed Oct 31, 2002
   Appellant's Exhibit A, page 2

4. Order Of With Drawl Of Dismissal Of Case, filed Nov. 12, 2002
   Appellant's Exhibit A,m page 2

5. Order Of Denial Of Annual Review, Appellant's Exhibit B

6. 2012 SCC Ann. 44-48-110 Notice Of Annual Review,
   Notice of Right Of Petition For Release At Annual Review
   Appellant's Exhibit C, pages

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7. Dr. Domino, 2012 SCC Ann. 44-48-110 Annual Review Examination Appellant's Exhibit D, pages

8. Judge McIntosch Order Granting Appellant Right to Electronically Record Annual Review Examination Appellant's Exhibit E,

9. SCDMH SVPTP Master Treatment Plan of 10/15/12 Appellant's Exhibit F, page

10. Appeallants Reply to SCDMH SVPTP Master Treatment Plan of 10/15/12, Appellant's Exhibit G,

11. Appellants open Letter to Judge Nicholson Appellant's Exhibit H

12. SCDMH General Counsel, Mr.Carter Motion To Deny SCDMH Motion To Intervene And Motion For Relief From And Stay Of Order And Notice of Motion

13. Respondants SCRCP, R 12 (b)(1,2,6) Motion To Deny SCDMH Motion To Entervene And Motion For Relief From And Stay Of Order And Notice of Motion

14. Respondant Motion To Modify Order Of 2/26/13 Enjoining The State And SCDMH From Interrogating And Requiring Respondant To Admit Guilt In Dismissed NC Charges Involving X-step Daughter.

I certify that this designation contains no matter which is irrelevant to this appeal.

May 20, 2013

William Deans

William Deans
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Columbia, C 29203
803-889-2922

Cover

To Clerk of Court SC Ct of App

Please clock stamp the enclosed for filing

and return Appellants copy

Thank you

W Dennis

In Matter of Care &
Treatment of
W. Nixon Dennis

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