



# The South Carolina Court of Appeals

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V. CLAIRE ALLEN  
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January 03, 2023

Charles Sullivan  
DMH/Wellpath SVPTP  
4546 Broad River Road  
Columbia SC 29210

Re: In the Matter of Charles Sullivan (2)  
Appellate Case No. 2019-002020

Dear Mr. Sullivan:

The Court is in receipt of your letter dated December 20, 2022, inquiring about the status of your appeal. A final decision was issued May 18, 2022 and the remittitur was issued on June 03, 2022, effectively ending your appeal and this Court's jurisdiction over your case. Attached is a copy of the Court's final decision and remittitur.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings". The signature is fluid and cursive.

CLERK

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

In the Matter of the Care and Treatment of Charles  
Sullivan, Appellant.

Appellate Case No. 2019-002020

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Appeal From Richland County  
Thomas A. Russo, Circuit Court Judge

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Unpublished Opinion No. 2022-UP-216  
Submitted March 1, 2022 – Filed May 18, 2022

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**AFFIRMED**

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James Kristian Falk, of Falk Law Firm, LLC, of  
Charleston, for Appellant.

Attorney General Alan McCrory Wilson and Senior  
Assistant Deputy Attorney General Deborah R.J. Shupe,  
both of Columbia, for Respondent.

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**PER CURIAM:** Charles Sullivan appeals the circuit court's denial of his petition for release from the South Carolina Sexually Violent Predator Treatment Program. On appeal, Sullivan argues the circuit court erred by (1) denying his statutory right to have a jury decide whether he should be released from indefinite confinement and (2) violating his due process rights. We affirm.

1. We hold the circuit court properly denied Sullivan's petition for release because the evidence reasonably supported its finding that no probable cause existed to believe Sullivan's mental condition had so changed that he was safe to be at large and not likely to commit acts of sexual violence. *See In re Care & Treatment of Tucker*, 353 S.C. 466, 470, 578 S.E.2d 719, 721 (2003) ("On review, the appellate court will not disturb the hearing court's finding on probable cause unless found to be without evidence that reasonably supports the hearing court's finding."); S.C. Code Ann. § 44-48-110 (2018) ("If the court determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence, the court must schedule a trial on the issue."); *Tucker*, 353 S.C. at 470, 578 S.E.2d at 722 ("In a [section] 44-48-110 probable cause hearing, the committed person has the burden of showing the hearing court that probable cause exists to believe that his mental condition has so changed that he is safe to be released.").

2. We hold Sullivan's argument regarding a violation of his due process rights is not preserved for appellate review because he failed to raise it to the circuit court. *See In re Care & Treatment of Corley*, 365 S.C. 252, 258, 616 S.E.2d 441, 444 (Ct. App. 2005) ("Constitutional issues, like most others, must be raised to and ruled on by the trial court to be preserved for appeal.").

**AFFIRMED.**<sup>1</sup>

**THOMAS, MCDONALD, and HEWITT, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.



# The South Carolina Court of Appeals

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June 03, 2022

The Honorable Jeanette W. McBride  
PO Box 2766  
Columbia SC 29202-2766

## REMITTITUR

Re: In the Matter of Charles Sullivan (2)  
Lower Court Case No. 2015CP4000770  
Appellate Case No. 2019-002020

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen*

CLERK

Enclosure

cc: James Kristian Falk, Esquire  
Alan McCrory Wilson, Esquire  
Deborah R.J. Shupe, Esquire  
The Honorable Thomas A. Russo