

IN THE SUPREME COURT OF  
SOUTH CAROLINA  
FOR THE FOURTH CIRCUIT COURT

**RECEIVED**

The State,

Respondent,

Appellant Case No : 2021-000990 FEB 20 2024

S.C. SUPREME COURT

v.

DAVID ANTONIO LITTLE, JR.

Appellant,

WRIT OF CERTIORARI

Motion To Reverse Judgement And Or Set

Aside Unconstitutional Conviction

The Appellant, David Antonio Little Jr., do hereby addresses this court and shows the following in opposition to the decision made in the above-mentioned case and shows the following:

The unconstitutional conviction of the appellant, while being a pretrial detainee in the custody and care of government agents in the state of South Carolina, shall be seen as malfeasance, error of the court, and prejudice against the appellant for what he has been forced to endured. Not only has the state of South Carolina convicted the appellant using perjured testimony, but the state has also denied the appellant a fair trial in the above-mentioned case. Showing the infringements of constitutional rights and while being conscious and aware of these violations, the state further impedes with injustice and neglect actions to prevent these violations

against the appellant from receiving remedy, by failing to correct the encroachments made against him pursuant to U.S.C. 18 § 242 and 241. Section 242 is intended to “protect all persons in the United States in their civil rights, and furnish the means of their vindication.” *Screws v. United States*, 325 U.S. 91, 98 (1945) (quoting legislative history).

Not only has the Sheriff James Dixon been relieved of his duties as the Sheriff of the county of Chesterfield, but Shelia Buckman, the director of the Chesterfield County Detention Center, has also been relieved of her duties along with several jailers and sheriff deputies following the arrest and unconstitutional conviction of the appellant. Regardless of the governments unwritten laws to protect their own corruptions and that of it's agents, this court has the duty to protect the “people” from corrupt acts of injustice without personal biased preconceptions and personal feelings.

It is the duty of “ALL” Grand jurors, Trial jurors, Justices, Sheriff's, and Bailiffs to correct injustice in as much as it is in their power to do so. If correction is not possible it is the duty of the court officer(s) to report the problem to the protectors of the People, the Grand Jury, in who's hand justice has been entrusted. (U.S.C 18 § 2382)

A conviction or sentence Imposed in violation of a substantive rule of constitutional law is not just erroneous but contrary to law and, as a result, void, and it follows, as a general principal, that the court has no authority to leave in place a conviction or sentence that violates a substantive rule, regardless of whether the conviction or sentence became final before the rule was announced. [*Montgomery v. Louisiana*, 577 U.S. 190]

## FACTS

The Appellant was arrested on 02/14/2021 without the presentment of a indictment or warrant and without having been read his Miranda rights until 02/17/2021. When arriving at the Chesterfield County Detention Center he was placed in a restraint chair on 02/14/2021 and remained in that position until 02/18/2021.

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Graham v. Connor*, 490 U.S. 386, 396-97 (1989). See *Whitley v. Albers*, 475 U.S. 312, 319 (1986).

On 02/16/2021 the Sheriff, James Dixon and several jailers, including Shelia Buckman made the unprofessional, negligent and wantoned decision to transport the Appellant to the McLeod Health Hospital where he was forced Antipsychotic drug injections into his buttocks while being fully restrained and held down by two (2) sheriff deputies. *Rogers v. Okin*, 634 F.2d 650 (1<sup>st</sup> Cir. 1980), The state has not justified why this was done to the appellant, failing to show any government interest or valid warrant which permitted them to violate the appellants constitutional rights. Neither has the state met it's burden of truth. See; [*Sell v. United States*, (539 U.S. 166 (2003))], *United States v. Watson*, 793 F.3d 416 (4<sup>th</sup> Cir. 2015) *United States v. Diaz*, 540 F.3d 1316 (11<sup>th</sup> Cir. 2008)

After being injected with mind altering drugs without his consent he was forced to give DNA and urine by forced i.v and catheter. The forced injections of Antipsychotic drugs were administered without consent or judicial order from a judge, and neither was the appellant afforded a hearing. The forced taking of DNA was done with a defective warrant on its face, as a result thereof, violated the appellants 1<sup>st</sup> amendment , 4<sup>th</sup> amendment, 5<sup>th</sup> amendment, 6<sup>th</sup> amendment, and 14<sup>th</sup> amendment due process. See; [Washington v. Harper, 494 U.S. 210 (1990)] United States v. Evans, No. 102CR00136, 2004 WL 533473, at \*1 (W.D. Va. Mar. 18, 2004). See United States v. Lindauer, 448 F. Supp. 2d 558, 567 (S.D.N.Y. 2006), United States v. Bush, 585 F.3d 806, 809–10 (4<sup>th</sup> Cir. 2009).

“I have a God given right not to have [my brain] altered by the government’s antipsychotic, psychotropic medication.”

“There’s no way law enforcement should be doing this without telling a judge what they are going to do. The Supreme Court has made it clear that bodily invasions are serious. Catheterization is painful and humiliating.” US v. Loughner, 672 F.3d 731 (9<sup>th</sup> Cir. 2012) Jurasek v. Utah St. Hosp., 158 F.3d 506 (10<sup>th</sup> Cir. 1998).

On 03/09/2021 the alleged assault/resisting arrest occurred at the detention center where the appellant acted off of pure instinct due to the fact that he felt an imminent threat to his safety after being shoved by these officers who failed to inform the appellant that he was under arrest in order for him to resist arrest. Out of fear the appellant acted in self defense when he was

shoved by the sheriff deputy at the jail. The imminent fear came from the prior incident of being forced Antipsychotic injections and being placed in excessive restraints.

Questions arise here as to:

1. The Appellant, after being forced Antipsychotic injections without due process on 02/16/2021 and having been forced to give DNA and urine.  
(Proving false Imprisonment and forfeit of jurisdiction of the Appellant.  
21 USC 853: Criminal forfeitures)
2. The Appellant was restrained in excessive restraints via restraint chair for over (72) hours upon his arrival at CCDC on 02/14/2021.
3. The Appellant was denied food for his first 3-4 days pretrial detention.
4. The officers who were "allegedly" assaulted never informed the appellant that he was under arrest.

The Constitution guarantees:

He who would unlawfully jeopardize your "property" loses property to you, and that's what justice is about. **Title 42 US Code Sec. 1983, Sec. 1985, & Sec. 1986**

When the agents of the state violated the appellant on 02/14/2021 by violating due process and using excessive restraints on the appellant, the

state lost its jurisdiction over the appellant. Further these agents transported the appellant to a hospital and held him down by force, allowing agents from a "separate corporation", who had no jurisdiction over the appellant, inject mind altering drugs into the body and mind if the appellant who constantly stated he did not consent to any medical treatment. These agents continued to hold the appellant in excessive restraints as a way to impair the mind and sancta of the appellant. After being forced medications he was then interrogated by officers of the Chesterfield County Sheriff's office who invented to receive a coerced confession.

"Judges are deemed to know the "Law" and are sworn to uphold it and can hardly claim they acted in good faith for willful deformation of a law and certainly cannot plead ignorance of the law, for that would make the law look unintelligent for a knowledgeable to claim ignorance of a law, when a citizen on the street cannot claim ignorance of the law. Therefore, there is no judicial immunity."  
[Cooper v. Aaron, 358 U.S. 1, 78 S. CT. 1401 (1958)]

On 03/22/2021 the Appellant was transferred from the Chesterfield County Detention Center after the "alleged" assault and taken to the Florence County Detention Center where he yet again was forced Antipsychotic injections by force without his consent due to the negligence, corruption, and retaliation of the state agents who, in doing so, violated procedural due process and due process of the Appellant as well as numerous other constitutional rights under the Bill of Rights.

The violations and infringements applied by unprofessional state agents which caused pain, suffering, injuries, and shock of conscience to the appellant through negligent actions has been a detrimental affect and encroachment to the appellant which has led to the unconstitutional conviction of the appellant.

In addition to the prohibition against torture per se, a range of other rights has been elaborated under binding international law for people who have been detained and charged with a criminal offense, including:

- The right not to be subjected to arbitrary detention
- The right to be presumed innocent
- The right to be informed of the reasons for the arrest
- The right to be informed promptly of any charges
- The right to not be compelled to confess guilt or testify against themselves
- The right to challenge the lawfulness of the detention
- The right to be brought promptly before a judge
- The right to legal assistance

In the case of the Appellant he has been denied the basic human rights and those of the Bill of Rights due to the forced Antipsychotic injections without consent to the appellant and the brutal acts which were imposed on the appellant while in custody of these state actors, who sought to mentally impair the appellant and physically cause torturous pain. The appellant declares that at the time of his trial on 07/26/2021, he was not competent to stand trial or able to assist his ineffective and incompetent attorney, who has conspired with the state to assist in gaining a easy conviction of the appellant. The poor performance of the attorney clearly shows this. The Appellant was not given the proper right to confront his accusers at his trial having no assistance from his attorney, who turned a blind eye to the injustices done to the appellant. The state, being fully aware of what has been done to the appellant has failed to rectify their wrongs and unjustifiable intrusions made by the irresponsible, lawless, and anarchist beast Government. People v. Harris (1983)

“No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government.”[Gulf, C. & S.F.R. Co. v. Ellis, 165 U.S. 150 (1897)

### **Involuntary Commitment**

While using different specific language, most states provide that people can be involuntarily committed to a mental institution if the person is:

Mentally ill, and Danger to self or others.

In many states, the dangerousness is supposed to be fairly immediate or “imminent.” Also, many states provide that even if the person is not dangerous, he/she can be committed if he/she is unable to take care of him/herself. In many states this is called being “gravely disabled.”

The United States Supreme Court case of *Foucha v. Louisiana*, 504 U.S. 71 (1992) held that “The State may [in addition to punishment for a crime] also confine a mentally ill person if it shows ‘by clear and convincing evidence that the individual is mentally ill and dangerous.’” (emphasis added) In the recent case of *Kansas v. Crane*, 122 S.Ct. 867 (2002), the US Supreme Court reiterated:

“ We have consistently upheld such involuntary commitment statutes” when (1) “the confinement takes place pursuant to proper procedures and evidentiary standards,” (2) there is a finding of “dangerousness either to one’s self or to others,” and (3) proof of dangerousness is “coupled ... with the proof of some additional factor, such as a ‘mental illness’ or ‘mental abnormality.’ “

With respect to the gravely disabled concept, in *O’Connor v. Donaldson*, 422 U.S. 563, 575–76 (1975), the United States Supreme Court has suggested that inability to take care of oneself cannot be considered a sufficient finding of dangerousness unless survival is at stake: “a State cannot constitutionally confine without more a nondangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends.” In *Wetherhorn v. Alaska Psychiatric Institute*, 156 P.3d 371 (Alaska 2007) the Alaska

Supreme Court explicitly adopted this standard under the Alaska Constitution in invalidating Alaska's statute authorizing commitment for being gravely disabled in order to avoid a "substantial deterioration of the person's previous ability to function independently."

As is explored at more (but not great) length in *Unwarranted Court Ordered Medication: A Call to Action and Psychiatric Myths*, the scientific reliability of diagnosing someone with a mental illness is very questionable. Even more questionable is the ability to reliably predict dangerousness. Thus, a vigorous attack on the scientific basis of psychiatric (expert) testimony on these elements can be mounted. In addition, attacks can be made on the way that the psychiatrist arrived at his or her opinion. For example, what was the standard for determining dangerousness? What authoritative work was used that sets the criteria? What level of dangerousness? As is shown by the *Corruption in the Courts* section, below, the way that most of these commitment orders are obtained is quite simple. They lie about meeting the legal requirements for getting the orders.

With respect to the mental illness diagnosis, itself, when a psychiatrist decides that a person has a mental illness and that person disagrees, according to the psychiatrist, that disagreement just shows the person lacks "insight" and is in itself proof of the mental illness.

### **Forced Medication**

The United States Supreme Court decisions of *Youngberg v. Romeo*, 102 S.Ct. 2452, U.S.Pa., 1982, *Mills v. Rogers*, 102 S.Ct. 2442 (1982) and

Rennie v. Klein, 102 S.Ct. 3506 (Mem), U.S., 1982, have been widely interpreted as holding that federal constitutional safeguards involving a person's right to refuse psychiatric medications are mostly defined by state law and that federal protection is limited to whether the treatment is "a substantial departure from accepted professional judgment, practice or standards" (the "Professional Judgment" standard). Under the "professional judgment" standard, if scientifically invalid pharmacology is "accepted practice" then, it doesn't matter that it is invalid. Catch-22. For example, in Kulak v. City of New York, 88 F.3d 63 (C.A.2 1996), mentioned in the annotated list of cases, held that the involuntary administration of Haldol was a proper exercise of professional judgment. Ultimately, however, it makes absolutely no sense that "professional judgment" prevails when the professional judgment can be shown to be fallacious.

It has been suggested that this is not what the Supreme Court actually held and that the Professional Judgment standard never was supposed to apply to forced medication cases. See, *Reevaluating Substantive Due Process as a Source of Protection for Psychiatric Patients to Refuse Drugs*, Indiana Law Review, 1998, 31 INLR 937. This view is lent great credence in the June, 2003, case of *Sell v. United States*, 539 U.S. 166, 123 S.Ct. 2174 (2003), which while a competence to stand trial case, demonstrates much less deference to "professional judgment" than has been suggested the Supreme Court held in *Youngberg*. In *Sell*, the U.S. Supreme Court laid down the following constitutional guidelines:

First, a court must find that important governmental interests are at stake.

Second, the court must conclude that involuntary medication will significantly further those concomitant state interests.

Third, the court must conclude that involuntary medication is necessary to further those interests. The court must find that any alternative, less intrusive treatments are unlikely to achieve substantially the same results.

Fourth, as we have said, the court must conclude that administration of the drugs is medically appropriate, i.e., in the patient's best medical interest in light of his medical condition. The specific kinds of drugs at issue may matter here as elsewhere. Different kinds of antipsychotic drugs may produce different side effects and enjoy different levels of success.

(italics in original) While Sell is a competence to stand trial case, it is hard to see how a person facing forced drugging in the context of civil commitment has fewer rights. Moreover, all of these guidelines are basic constitutional principles that should be applicable to the civil forced psychiatric medication context. The question of what federal constitutional rights people facing forced drugging in the civil context have should be taken to the United States Supreme Court in an appropriate case. PsychRights raised these issues in an Alaskan case, *Myers v. Alaska Psychiatric Institute*, S-11021, which invalidated Alaska's forced drugging statute and required the court to find by clear and convincing evidence that in addition to all of the statutory criteria, the forced drugging is in the

person's best interests and there are no less intrusive alternatives available.

### **Harper Hearing Process**

1. A hearing may be requested if:

- a. The person has a serious mental illness; and
- b. The treating psychiatrist believes that the individual is a serious danger

To self or others; and

- c. The involuntary administration of antipsychotic medication is in the person's medical interest.
2. A special hearing committee is then convened, which generally must include a psychiatrist, a psychologist, and another staff member who usually acts as the committee chairperson. None of these committee members may be involved with the inmate's treatment or diagnosis.
3. The inmate is given notice of the hearing and an opportunity to identify and present witness testimony and other evidence, often with the assistance of the lay advocate.

4. The inmate's attorney should be given notice of the hearing and have an opportunity to provide information or opinion, but the inmate does not have the right to have an attorney represent with them at the hearing.
5. The lay advocate must attempt to meet with the inmate prior to the hearing to discuss the inmate's wishes.
6. The hearing should be held in a confidential setting and the inmate must be given the opportunity to be present. The lay advocate should be present whether or not the inmate is present. The lay advocate represents the inmate's wishes and position at the hearing, although the inmate does not have to rely on the lay advocate.
7. After the hearing, a determination is made regarding whether sufficient evidence supports the requirements needed for involuntary administration of medication. The decision is made by committee majority vote, though the non-treating psychiatrist must vote in favor of involuntary medication for it to be approved.
8. The inmate must be notified of the decision and given information and an opportunity to appeal if the inmate disagrees with the decision.

### **Harper Hearing: Individual's Rights**

A person may choose to accept or decline antipsychotic medications, and their choice should be considered and respected. However, there may be times when an person's decision to decline medication may pose a risk to health and safety, and may not be in the person's medical interest. The decision to proceed with the Involuntary administration of medication requires weighing the rights of an Individual to refuse antipsychotic medicine against the likelihood that the administration of antipsychotic medication is medically necessary (RCW 71.05.215). Considerations that should be addressed when administering medication Involuntarily include the following:

- Documentation of and adherence to the components required in accordance with RCW 71.05.215
- Ensuring that the rights of the person are respected
- Steps to manage how involuntary medications are ordered
- Assuring safety during the administration of medications
- Following established written protocols and defined procedures for the involuntary Administration of medications.

The Appellant in this case was not given the right to refuse the forced Antipsychotic drugs or the forced taking of his DNA. Jailers did not follow proper protocol or established law. The appellant was administered these mind altering drugs, not because he was mentally-ill or a danger to jailers,

but was instead forced these drugs in a ruse to compel him be coerced in being a witness against himself in violation of his 5<sup>th</sup> amendment. Because the warrant to force DNA from the appellant was defective on its face, it shall be seen by this court as a violation of the appellants 4<sup>th</sup> amendment and 1<sup>st</sup> amendment to privacy. See, e.g., *Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 342 (1990) (holding that people have a liberty interest in making some decisions free from Governmental intrusion); *Bee v. Greaves*, 744 F.2d 1387, 1395 (10<sup>th</sup> Cir. 1984).

The Appellant was never adjudicated mentally-ill and neither has the state presented facts to justify that the appellant was a danger to himself or staff prior to the forced antipsychotic injections which were administered on 02/16/2021 and 03/22/2021. It is and shall be seen, that the government and its state agents intentionally caused the mental impairment of the appellant upon his arrest and then forced the appellant into going to trial for a charge in which was imposed "after" he was arrested on unrelated charges, seeking a conviction on a less complex charge which the state seen to be an easy conviction for their benefits in a conniving and deceptive ruse to obtain the conviction of the appellant. *Dusky v. United States*, 362 U.S. 402 (1960).

- Brakel, S. J. (1974). Presumption, bias, and incompetency in the criminal process. *Wisconsin Law Review*, 1974, 1105-1130.
- Golding, S. L., & Roesch, R. (1988). Competency for adjudication: An international analysis. In D. N. Weisstub (Ed.), *Law and mental*

health: International perspectives (Vol. 4, pp. 73-109). NY: Pergamon.

- Kaufman, H, (1972). Evaluating competency: Are constitutional deprivations necessary? American Criminal Law Review, 10, 465-504.
- McGarry, A. L. (1965). Competency for trial and due process via the state hospital. American Journal of Psychiatry, 122, 623-631.

### **Conclusion**

The appellant demands that this court rectifies the injustices and encroachments made against the appellant expeditiously and affords the appellant remedy [ 5 U.S. 137, Marbury v. Madison].

“ The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right.”

The acts committed against the appellant by state actors has caused the unconstitutional conviction of the appellant and the false Imprisonment which the state of South Carolina is deemed to justify pursuant to U.S.C. 42 § 1983, 1985, and 1986.

“In the criminal law context, there are a few additional standards that apply in specific circumstances. Another well-known standard is the probable cause standard. This standard focuses on balancing effective law enforcement practices against the Fourth Amendment guarantee against unreasonable invasions into citizens’ privacy. In *Illinois v. Gates*, 462 U.S. 213 (1983), the Supreme Court outlined the totality of the circumstances test that applies to determining whether a police officer had probable cause to conduct a search and seizure, and for magistrate judges to use when issuing warrants. The standard requires police officers and judges to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the ‘veracity’ and ‘basis of knowledge’ of persons supplying hearsay information, there is a fair probability that contraband evidence of a crime will be found in a particular place.”

By administering these forced Antipsychotic injections into the appellants body the state has caused the appellants conviction while he was incompetent to stand trial due to the forced drugs and brutal acts suffered while in police custody, and could have caused the death of the appellant. See Wayne A. Ray et al., *Atypical Antipsychotic Drugs and the Risk of Sudden Cardiac Death*, 360:3 *NEW ENGL. J. MED.* 225, 225 (2009).

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized” [4th Amendment]

The Majority in *Sell* even conceded that “different kinds of antipsychotic drugs may produce different side effects and enjoy different levels of success.” *Sell v. United States*, 539 U.S. 166, 181 (2003). Even though the appellant did not die from these forced injections, they have caused the appellant mental impairment from the side effects from the dangerous drugs, causing more harm than good.

Our nation’s mental illness epidemic has wreaked havoc on the lives of millions of families across the socio-economic spectrum, and has spawned an industry devoted to developing anti-psychotic drugs to combat these cognitive diseases, “ In which the appellant did not suffer prior to arrest”. The government’s practice of forcibly administering antipsychotic drugs to criminal defendants in order to render them competent for trial places these defendants’ constitutional rights at serious risk. In 2003, the United States Supreme Court upheld this controversial practice in its landmark decision (*Sell v. United States*). *Riggins v. State*, 860 P.2d 705, 708 (Nev. 1993) *Albright v. Oliver*, 510 U.S. 266, 272 (1994).

For the state and this government to further impede against the rights of the appellant proves and shows that this government is corrupted to its core. Not only does the past corruptible acts against the native aboriginal peoples of this land prove that the contradictory constitution of Amerikkka was not written for "ALL" people, but for the Hybrid Europeans races who's ancestors colonized this land by brutal forced and the teachings of Christianity. The same people who continuously show and prove their disdain for people like the appellant. They have continued to show and prove that there is no equality in this country and there will never be until the proper reparations, equality, and justice is given to the native people of this land.

Therefore, how long will the State of South Carolina and its agents continue to impede against the appellant when it is clear what has been done to the appellant at the hands of this states public servants and biased judges. The state and its agents are quick to convict, but slow to give remedy for the violations and wrongs it has committed through incompetent and deceptive agents.

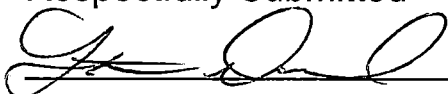
"No man in this country [including legislators of the government as a legal person] is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives,"

Shall it be said, that the courts cannot give remedy when the "citizen" has been deprived of his "property" by force, his estate seized and converted to the use of the government without any lawful authority, without any process of law, and without any compensation, because the president has ordered it and his officers are in possession? If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well- regulated liberty and the protection of personal rights," 106 U.S., at 220, 221. [United States v. Lee, 106 U.S. 196, 1 S.Ct. 240 (1882)]

The courts cannot just turn a blind eye to what has been done in this case. Clearly the appellant was railroaded by the lower courts and poorly represented by counsel who was in cahoots with the prosecutor. Having been aware of the forced medications, excessive force, perjury and the forced wearing of the stun belt at trial, she failed to do her job, because it was a calculated ruse of the court and the agents of the government to convict the appellant regardless of a fair trial or not. If the jury having know about the forced medications alone, that violation would have prevented the conviction of the appellant.

Date: FEBRUARY 15, 2024

Respectfully Submitted

 WITHHOLD  
PREJUDICE

David Antonio Little, Jr. #385407  
4848 Gold Mine Hwy  
Kershaw SC, 29067