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Oct 07 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY  
COURT OF COMMON PLEAS

Walton J. McLeod, IV, Circuit Court Judge

Case No: 2024-001440

In the Matter of the Care and Treatment of Phillip Byron Nix.....Appellant

RETURN TO RESPONDENT’S MOTION TO DISMISS

Comes now Appellant Phillip Byron Nix, by and through his undersigned attorney, who submits this Return to Respondent’s Motion to Dismiss.

1. Appellant was committed to the South Carolina Sexually Violent Predator Program on August 13, 2024 in Lexington County, South Carolina (Docket No. 2022-CP-32-2497). He received a copy of the Order of Commitment the same day.

2. On August 22, 2024, Appellant filed a Motion to Set Aside Verdict and Grant a New Trial.

3. On August 28, 2024, before the trial court ruled on his Motion, Appellant filed a Notice of Appeal pursuant to Rule 201, SCACR. Appellant also informed the Court of the pending Motion to Set Aside Verdict.<sup>1</sup>

<sup>1</sup> See Appellant’s Notice of Appeal (stating, “Appellant’s Motion for New Trial is currently pending with the trial court.”)

4. As of the date of this Return, Appellant's Motion is pending before the trial court.

5. Appellant acknowledges that his Notice of Appeal may have been prematurely filed, given the language of Rule 201, SCACR. He requests that the appeal be held in abeyance until the trial court issues a decision. Should the Court be inclined to grant the State's Motion, Appellant requests that his appeal be dismissed without prejudice.

Respectfully Submitted,

s/ Kindle K. Johnson

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Kindle K. Johnson, Esq.

Attorney for Appellant

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PROOF OF SERVICE

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The undersigned hereby certifies that on October 5, 2024, she served the **Return to Respondent's Motion to Dismiss** on the below parties at their email addresses as listed below (or postal addresses if otherwise indicated). She further certifies that all parties have been served as required by SCACR Rule 203.

**VIA EMAIL**

Deborah R.J. Shupe, Esq.  
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**VIA US MAIL**

Phillip Byron Nix  
4546 Broad River Rd.  
Columbia, SC 29210

Respectfully Submitted By:  
s/ Kindle K. Johnson

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