

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Spartanburg County

J. Mark Hayes, II, Circuit Court Judge

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THE STATE,

APPELLANT,

V.

CASEY DOUGLAS,

RESPONDENT

APPELLATE CASE NO. 2025-000914

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MEMORANDUM ON APPEALABILITY

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The undersigned chief appellate defender, making this memorandum at the request of this Court, respectfully submits that the order releasing Respondent Casey Douglas from inpatient hospitalization at the Department of Mental Health (DMH) on the condition that he reside at Generations of Monetta community residential care facility subject to fourteen (14) specific conditions is not appealable to this Court. This does not mean that the state is without a remedy if it genuinely considers Respondent Douglas a danger to himself or the public at this time.

The order in this case states that appellant was evaluated pursuant to State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981), after being charged with two counts of murder and possession of a weapon during the commission of a violent crime on November 5, 2019. On January 7, 2020, Douglas was found not competent to stand trial and unlikely to become competent to stand trial in

the foreseeable future. Douglas was committed to the G. Werber Bryan Psychiatric Hospital's forensic unit on November 20, 2020 and he has been continuously treated by Bryan Psychiatric Hospital since that date. After being reevaluated for competency to stand trial on January 7, 2022 and October 9, 2024, it was opined again that Douglas was not competent to stand trial and not likely to be restored following both evaluations.

Officials at DMH later notified the Court of General Sessions pursuant to S.C. Code Ann. §44-23-460 that Douglas no longer required inpatient hospitalization, and he could be treated on an outpatient basis at Generations of Monetta community residential care facility in Monetta, South Carolina. He would receive treatment from the Aiken-Barnwell Medical Health Center. Order at p. 2.

Judge Hayes wrote:

DMH asserts that subsection (1) of Section 44-23-460 requires the person found unfit to stand trial must be released from the hospital if DMH believes he no longer requires hospitalization. Generally, this Court agrees with DMH's assertion to the extent that the wording in the statute requires this Court to follow the legislative mandate reflected in the terminology "shall order his release from the hospital." Additionally, this Court notes that it only possesses jurisdiction over Mr. Douglas at this time, based upon DMH's invoking its request pursuant to 44-23-460. See, Wilson v. State, 315 S.C. 158, 432 S.E.2d. 477 (1993). This Court's second issue is to determine if there is a likelihood of serious harm to Mr. Douglas or others with the placement recommendation offered by DMH. In other words, whether a patient charged with a violent crime can be released to the recommended placement with terms and conditions appropriate for the safety of the community and the well-being of the patient. See, Section 44- 23-430(c).

Having considered the reports, evaluations, and testimony, which included, but was not limited to, the insight of the Defendant and the threat of harm from the Defendant, this Court finds that Mr. Casey Douglas should be released from hospitalization as recommended by DMH with the following special conditions. The special conditions should be strictly complied with until further order is issued by a general session judge.

[footnote deleted] Order pp. 2-3.

Judge Hayes ordered that while Douglas was residing at Generations of Monetta located in Monetta, South Carolina he would be subject to fourteen specific conditions. These conditions included that Douglas not leave this assigned mental health facility unless accompanied by appropriate mental health staff. Douglas was also ordered to wear the DMH electronic ankle monitor if he left the facility. In addition, Douglas must comply with the program of care and treatment developed by the Aiken-Barnwell Mental Health Center and monitoring by the DMH forensic outreach clinic. Douglas was ordered not to use alcohol or illicit drugs, refrain from possessing any weapons, and to follow any probate court orders for treatment.

The solicitor filed a motion to reconsider this order, which was denied, and the state then filed a notice of intent to appeal with this Court.

Undersigned counsel submits that the order of Judge Hayes is analogous to an order granting limited release of a defendant from confinement in a detention center pre-trial with stringent conditions. The nature of this pre-trial release as a form of bond is set forth in the statutory framework:

If the pending charge is a violent crime, a hearing must be held by the court in which the charges are pending, prior to release, on the issue of whether the person shall be released *on bond* with terms and conditions appropriate for the safety of the community and the well-being of the person.

S.C. Code §44-23-430(C) (emphasis added).

As with any other such order granting bond, this pre-trial release may be revisited by the

Court of General Sessions based upon violation of the terms or a change in circumstance.<sup>1</sup>

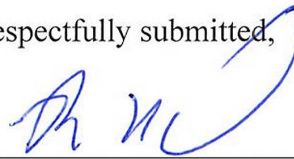
Orders granting bond are not subject to immediate appeal to this Court. The denial of bond pre-trial has been deemed interlocutory and not immediately appealable. *See Parsons v. State*, 289 S.C. 542, 347 S.E.2d 504 (1986) (holding an order denying bail was not directly appealable). It is an interlocutory order since Douglas has not been convicted and sentenced. *See State v. Rearick*, 417 S.C. 391, 790 S.E.2d 192 (2016) (even a motion denying a double jeopardy grounds is interlocutory and not appealable unless and until the defendant is convicted and sentenced in violation of his Constitutional protection against being subjected to double jeopardy). *See, also, Ex parte Wilson*, 367 S.C. 7, 12, 625 S.E.2d 205, 208 (2005) (citing *Culbertson v. Clemens*, 322 S.C. 20, 23, 471 S.E.2d 163, 164 (1996)); *See Ex parte Cap. U-Drive-It, Inc.*, 369 S.C. 1, 6, 630 S.E.2d 464, 467 (2006) (“An appeal ordinarily may be pursued only after a party has obtained a final judgment.”). “Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory and not final.” *Wilson*, 367 S.C. at 12, 625 S.E.2d at 208. (citing *Mid-State Distribs., Inc. v. Century Importers, Inc.*, 310 S.C. 330, 336, 426 S.E.2d 777, 780 (1993)); *Mid-State Distributors*, 310 S.C. at 334-35, 426 S.E.2d at 780 (order denying motion to dismiss case based on lack of personal jurisdiction was not immediately appealable, as the litigant had “not arrived at the end of the road”).

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<sup>1</sup> S.C. Code §44-23-450 specifically provides for a “reexamined by the court upon its own motion, or that of the prosecuting attorney, the person found unfit to stand trial, his legal guardian, or his counsel” except that such petitions should not be filed within six-months of any prior such petition.

Consequently, undersigned counsel, having submitted this memorandum at the request of this Court, respectfully submits that the order under appeal is not immediately appealable, and that it should therefore be dismissed. Again, this does not mean that the state is without a lower-court remedy if it genuinely considers Respondent Douglas a danger to himself or to the public.

Respectfully submitted,



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Robert M. Dudek  
Chief Appellate Defender

This 9th day of June, 2025.

RECEIVED

Jun 09 2025

SC Court of Appeals

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IN THE COURT OF APPEALS

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Appeal from Spartanburg County

J. Mark Hayes, II, Circuit Court Judge

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THE STATE,

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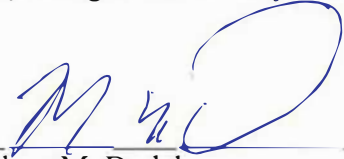
APPELLATE CASE NO. 2025-000914

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Memorandum in the above-referenced case has been served upon Barry Barnette, Esquire, Mark Farthing, Esquire, and Michael Berry, Esquire at the primary e-mail addresses listed in the Attorney Information System (AIS), and on Casey Douglas this 9<sup>th</sup> day of June, 2025.

  
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Robert M. Dudek  
Chief Appellate Defender

## Warren, Kaylynn

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**From:** Warren, Kaylynn  
**Sent:** Monday, June 9, 2025 11:35 AM  
**To:** Mark Farthing  
**Cc:** Barry J. Barnette; mberry@spartanburgcounty.org; Dudek, Robert; Caroline Collins  
**Subject:** RE: 2025-000914 The State v. Casey Douglas  
**Attachments:** 2025-000914 The State v. Casey Douglas Memorandum on Appealability- Appellate Defense.pdf

Good Morning,

The previously-served memorandum was erroneously missing a page. Attached for service in the above-referenced case is the Memorandum on Appealability which will be filed today, June 9, 2025, with the Court of Appeals via email filing.

Respectfully,  
Kaylynn

**Kaylynn Warren**  
Administrative Assistant  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
(803) 734-1330

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**From:** Warren, Kaylynn  
**Sent:** Monday, June 9, 2025 11:20 AM  
**To:** Mark Farthing <mfarthing@scag.gov>  
**Cc:** Barry J. Barnette <bbarnette@spartanburgcounty.org>; mberry@spartanburgcounty.org; Dudek, Robert <RDudek@sccid.sc.gov>; Caroline Collins <ccollins@scag.gov>  
**Subject:** 2025-000914 The State v. Casey Douglas

Good Morning,

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Respectfully,  
Kaylynn

**Kaylynn Warren**  
Administrative Assistant  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
(803) 734-1330