

THE STATE OF SOUTH CAROLINA
In the Court Of Appeal

IN THE MATTER OF CARE AND TREATMENT OF WILLIAM DEANS
CASE NO: 2002-CP-04-3343

South Carolina
Attorney General Office
Alan Wilson.....Respondant

v.

William Deans.....Petitioner

PETITION OF VERIFIED COMPLAINT FOR DECLARATORY RELIEF FROM THE
UN-CONSTITUTIONALITY OF SOUTH CAROLINA CODE OF LAW 44-48-10/170

RECEIVED
OCT 14 2013
SC Court of Appeals

William Deans
7901 Farrow Rd.
Bldg. 3, 3rd. Floor
Columbia, SC 29203
(803) 839-2989
Pro-Se

Other

South Carolina
Attorney Generals Office
Alan Wilson
PO Box 11549
Columbia, SC 29211

Respondant

CONTENTS

Cover.....1

Contents.....2

Authorities.....3

PETITION SEEKING JURISDICTION OF THE
SOUTH CAROLINA COURT OF APPEAL.....4

STATEMENT OF THE ISSUES.....5

STATEMENT OF THE CASE.....6

PETITION OF COMPLAINT FOR THE UN-CONSTITUTIONALITY
OF SOUTH CAROLINA CODE 44-48-10/170.....7-9

PRAYER FOR RELIEF.....8-9

MEMORANDUM AND ARGUMENT IN SUPPORT OF PETITION
OF COMPLAINT FOR THE UN-CONSTITUTIONALITY
OF SOUTH CAROLINA CODE 44-48-10/170.....10-15

PROOF OF SERVICE.....

AUTHORITIES / STATUES

South Carolina Court Of Appeals
Rules Of Procedure

SCRAP, Rule 229.....4

South Carolina Code Of Law 44-17-580 at (1) (2).....11

SCC Ann. 44-48-10/170.....4-7.10-12.14-15

OTHER:

Compare: People v. Jetter 124 Cal Rptr. 633,
540 P2d 1217 (1975).....12

PETITION FOR JURISDICTION OF THE SOUTH CAROLINA
COURT OF APPEAL

Petitioner, William Deans brings a novel question of law / of public interest to invoke the jurisdiction of this Court to review question of un-constitutionality of South Carolina Code of Law 44-48-10/170 specifically SCC. Ann. 44-48-30/100,

To which, the Respondant is circumventing SCC Ann. 44-17-580 et al. to civil commitment persons who suffer [a] clinical Psychosis of Axis I, Psychotic, Paranoia, delusional, and or Axis II Bi-Polar with both of psychotic assaultive out burst, to be housed in the general population with Petitioner under SCC Ann. 44-48-10/ at 100.

Petitioner seeks South Carolina Court Of Appeals review as the most logical choice, being the SC Dept. Mental Health has no authority to deny placement of a Court ordered civil commitment. which would foreclose attempting to file in the SCDMH grievance system, Then via the SC Administrative Law Court, nor in a Court of Common Pleas.

Which leaves either the SC Supreme Court or this Court. Petitioner choose this Court for the simple fact the issues raised herein does effect a few thousand of people addressing un-checked abuse needing expedient determination.

see hereto Petitioner's Complaint and Supporting Memorandum.

Wherefore, Petitioner moves this Court to grant Jurisdiction to review his matter as complained.

10, 10, 2013

Respectfully submitted by,

William Deans
William Deans
7901 Farrow Rd.
Bldg. 3, 3rd. Floor
Columbia, SC 29203

WD
4

QUESTION PRESENTED

I

Can Petitioner [a] SCC Ann. 44-48-10/170 civilly committed person , be un-constitutionally denied Equal Protection / created liberty interest and SVP treatment, control and care by being housed with mentally deranged persons, who have been adjudicated or meet the clinical criteria of DSM-V, Axis I Psychosis, SCC Ann. 44-17-510, who inflect assaultive psychotic rages against Petitioner and or housed in the general population with this Petitioner.

II

Is South Carolina Code 44-48-10/170 un-constitutional as failing to prevent the civil commitment of persons meeting the criteria of SCC Ann. 44-17-510 into the same facilities general population as house SCC Ann. 44-48-10/170 civil committees.

STATEMENT OF THE CASE

This matter arose when Petitioner in June 2004, was civilly committed pursuant to SCC Ann. 44-48-10/170 at 100 to the constitutional care, control and treatment of the SC Dept. Mental Health, as prosecuted by the SC Attorney Generals Office,

That also civilly committed pursuant to SCC Ann 44-48-100 to the SCDMH SVP Edisto / SVP Congaree unit's are persons with prior adjudications and or fit the criteria of SCC DSM-IV, and newly up-dated DSM-V, Axis I, Psychosis of Paranoid, Introverts, delusional / social Paths with fits of extreme violence, that daily threaten this and all civilly commuted SVP's persons, whereby

This petitioner has been physically attacked by [these] mentally ill patients on at least 15 occasions,

This Petitioner has been charged and punished three times for having altercations with these persons, which in turn, Petitioner has been punished by being placed in solitary Public Safety Officers controlled confinement, denied Rehabilitation, food, funding, privilege, and SVP Treatment for which he was civilly committed.

At present there are at a minimum, eighteen known such mentality ill patients, being housed within the SVP Edisto / Congaree units.

That these persons require extreme higher cost and maintenance in both SCDMH personnel, and security, which directly denies this Petitioner care, control and treatment for which he was civilly committed, in the form of SVP treatment provided by therapist with SVP credentials, one on one therapy with qualified SVP therapist.

That the housing these Axis I mentally ill psychotic patients under South Carolina Code 44-48-10/170 constitutes a violation of the cruel and unusual punishment clause and Petitioners right to equal protection of both the State and Federal Constitution.

The following addresses the violational abuse inflicted against this Petitioner by being forcibly housed in with Axis I physically violent mental patients.

PETITION / VERIFIED COMPLAINT

This is a Verified Complaint to challenge the constitutionality of SCC Ann. 44-48-10/170 failure to provide Petitioner equal protection of the laws for failure to protect Petitioner from the States civil commitment of DSM-V Axis I, Psychotic, SCC 44-17-510 mentally ill psychotics into the SVP Program who continually committee acts of physical violence upon this Petitioner and which denies this Petitioner from receiving SCC. Ann. 44-48-10/170 constitutional care, control and treatment.

This is specifically understood as Petitioner is not championing in any manner nor states a cause of action for any persons refereed herein as (these) / Axis I Psychotic, mentally ill patients.

1. Petitioner William Deans, who's correct mailing address (only) is 7901 Farrow Rd., Bldg. 3, 3d floor, Columbia, SC 29203 is housed at the SVP Edisto unit, Broad River Correctional Inst.

2. Respondent, State of South Carolina, Attorney Generals Office, Alan Wilson, PO Box 11549, Columbia, SC 29211.

et al. John MaGill, Superintendent South Carolina Dept. Mental Health, General Counsel, 2414 Bull St, Columbia, SC 29202.

3. See herein, STATEMENT OF THE ISSUES, QUESTIONS PRESENTED, and Memorandum in Support Of Petition.

7 WJ

PRAYER FOR RELIEF

Wherefore, Petitioner moves this Court as follows,

1. To issue a Declaratory Judgment stating that it is unconstitutional to house Petitioner in the future with person[s] having been adjudicated with and or fit the clinical criteria of any DMS-V, Axis I, psychosis, specifically but not to exclude any other.

a) Paranoid or/ Psychotic / delusional, or/ Introvert, or/ Bi-polar, (in any, given combination thereof) and who,

b) have inflicted repetitive acts (referred to as having a case history) of assaultive psychotic rages causing harm upon other residents of the SCDMH SVPTP,

c) and or persons who have been and or at present being prescribed medications to control the persons diagnosed with DMS-V, Axis I, Paranoid, or/ Psychotic or/ delusional, or/ Social-la Pathetic who have caused repeated acts of harm upon other residents of the SCDMH SVPTP.

d) and said DSM-V, Axis I, mentally ill person[s] who have or have not inflicted such violence against this Petitioner.

e) this does not exclude a person with a DSM-V, Axis II diagnosis,

who have or can commit acts of un-provoked assaults upon this Petitioner and or other residents of the SCDMH SVP Program,

2. To issue a Declaratory Judgment stating Petitioner has the right in the future to be pursuant to SC Legislatures Intent, by Statue, be housed in the general population of SCDMH, SVP, Edisto / Congaree units.

Respectfully submitted by,

I, William Deans, verify the foregoing statements of fact to be true and correct to the best of my personal knowledge and belief.

10, 10, 2013

William Deans

William Deans

7901 Farrow Rd.

Bldg. 3, 3d floor

Columbia, SC 29203

9 

MEMORANDUM AND ARGUMENT IN SUPPORT OF PETITION

1. The State is causing Petitioner to suffer actual prejudice by circumventing the SC Legislatures Intent and jurisdiction of SCC 44-48-10/170 to cause the unlawful civil commitment of mentally ill patients with personal case histories of meeting the clinical criteria of SCC 44-17-510 or other, DSM-V Axis I, II Psychosis, who have inflicted psychotic assaultive rages upon themselves, this Petitioner and of others and who happenstance have also committed acts of sexual violence.

The argument is the SC Legislature did not intent for these mentally ill patients to be civilly committed into the SVP Program who have after the fact of being of diminished capacity have been adjudicated sexually violent predators, then for no more reason then a place to detain these person[s for life with out having to address / treat any Axis I. II diagnosis of psychotic behavior.

Note: In this text, the term Detain is descriptive of "Dumping".

2. The State is without the Subject Matter Jurisdiction to have civilly committed and house these Axis I mentally ill patients in with this Petitioner.

SCC Ann. 44-48-10 at 30, specify the SC Legislatures Intent mandating the criterion for who can and who can not be civilly committed and housed in the Edisto / Congaree SVP units with this Petitioner under the SVP Act, see SCC Ann. 44-48-30 (1) (b), states,

"suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care and treatment.

at (3) "Mental abnormality" means a mental condition afflicting a person's emotional or volitional capacity that predisposes the person to commit sexually violent offenses.

3. SCC Ann. 44-17-580 at (1) states

"lacks sufficient insight to make responsible decisions with respect to his treatment; or"

at (2)

"there is a likelihood of serious harm to himself or others....."

4. SCC 44-48-10/170 does not say or permit the civil commitment of persons of diminished capacity, especially patients who suffer Axis I Psychosis, of assaultive rages, see SCC 44-48-30 (3) states

"suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence".

a) SCC 44-48-30 (3) is very specific as to exactly what mental state of mind it is intending to civilly committee.

The SVP Act does not say, Axis I Psychotics who also happened to have committed acts of sexual violence.

b) note: 44-48-30 (3) "likely to engage in acts of sexual violence", is defined as a fictional presumption of future dangerousness verses actually committing acts of psychotic rages of mindless not sexual violence upon themselves, anyone and or this Petitioner,

c) note: Petitioner does not say or imply that Sexually Violent Predators have not or an extremely small ratio will not commit

further acts of sexual violence, this is argued that there is a completely separate group of offenders who assault any one at any time for zero to purely delusional reasons perpetrating such acts of violence upon this Petitioner, not to be exclude any other SVP resident.

5. Petitioner asserts the difference between a person of Axis I Psychotic diminished capacity and a person who has a mental abnormality / personality disorder is one is susceptible to reasoning and treatment without medication and the other being of a Axis I Psychosis is not amendable to SVP treatment or logical reasoning and must be sedated to control their assaultive violent behavior toward oneself and all others.

a) Petitioner has been attacked on at least 15 occasions by persons of the Axis I, Psychosis, causing Petitioner permanent physical damage and which in turn Petitioner has been punished by being denied SVP treatment, with a documented loss of 33 % of the available treatment, feasibility causing the denial of Petitioners release into the general public, (which is not a cause of action in this case, etc al, is another consequence of the given punishment.

Petitioner must go about his commitment / daily in a constant state of watchfulness, mindful of saying even the most mundane "good morning", which could and has set off any of these person[s depicted herein as those who suffer a Axis I Psychosis.

In summary, Petitioner challenges the constitutionality of SCC App 44-48-10/170 total lack of affording this petitioner a reasonable

expectation of receiving equal protection of being safe in his person and in receiving 100% of the SVP treatment for which he is civilly committed.

note: Petitioner who is refused access to a reference law library can not argue case law mor precedents of authority,

6. Petitioner can argue a reversal of the following case, which simply show other State Courts have addressed the housing of the mentally ill persons in a prison setting is not constitutionally permissible.

Compare: People v. Jetter 124 Cal Rptr. 633, 540 P2d 1217 (1975) the California Supreme Court held that "the involuntary, indefinite confinement of civilly committed mentally disordered sex offenders in a prison setting violates both the cruel and unusual punishment clause of the Eight Amendment to the United States Constitution and the corresponding provision" of the California Constitution.

It is long settled that the SCDMH SVP Program and these mentally ill persons are housed within the Broad River Correctional Institution, old death row prison building, Edisto unit 197 and now also Congaree unit, under prison policy and punishment for infractions of prison rules enforced and detained by the SC Public Safety Office through the SCDMH.

The mentally ill person can not (take) meaningful SVP treatment which in turn makes their civil commitment 100% detention in a 99.99% Public Safety Officers prison detention.

Likewise, for it must be considered cruel and unusual punishment to house this petitioner who has only been adjudicated as being with a

presumption of future dangerous to be housed in with the Axis I, II, psychotic mentally ill persons.

If not cruel and unusual punishment in a civil content, for this Petitioner, it is at the least a violation of Petitioners created liberty interest not to be endangered by Axis I, II, mental patients who must have their own facility as not to stigmatize them for being in the Edisto / Congaree units with Petitioner from receiving any SVP treatment due to each's mental incapacity.

A reversal argument is that SCC Ann. 44-48-10/170 fails to prevent Axis I, Psychotics from stigmatizing this Petitioner.

That due to the substantial higher cost to maintain these Axis I patients, directly effects and denies this Petitioner meaningful SVP treatment for which he was civilly committed in the form of loss of one on one treatment with a qualified sex therapist, the loss of being treated by qualified sex therapist in group settings, the denial of an acceptable diet, the denial of being in a facility conducive to the treatment for which Petitioner was civilly committed.

7. There is no correction of the issues raised in this Petition until the Courts understand that SCC Ann. 44-48-30 (2) "mental abnormality or personality disorder ", is not a medical term listed in the DSM-V as a diagnosis, criteria, or otherwise, and is not accepted by the general profession according to the American Associations of Psychiatrist and Physiology.

Axis I, Psychotic is a medical definition which is not amendable with the application of the legal term Mental Abnormality or Personality Disorder.

8. The only acceptable remedy to solve the un-constitutional violations as complained at issue is for all the Axis I patients be ordered removed from the Edisto / Congaree Broad River Correctional Institution SVP units.

For the foregoing reasons and authorities this Court should find SCC Ann. 44-48-10/170 un-constitutional for failing to afford this Petitioner Substantive Due-Process and Equal Protection of the laws.

Respectfully submitted by,

10, 10, 2013

William Deans

William Deans

7901 Farrow Rd.

Bldg. 3, 3rd. Floor

Columbia, SC 29203

THE STATE OF SOUTH CAROLINA
In the Court Of Appeal

IN THE MATTER OF CARE AND TREATMENT OF WILLIAM DEANS

Case No: 2002-CP-04-3343

South Carolina
Attorney General Office
Alan Wilson.....Respondant

v.

William Deans.....Petitioner

PROOF OF SERVICE

I, William Deans, certify that on this below referenced date did serve a true copy of the foregoing "PETITION SEEKING JURISDICTION OF THE SOUTH CAROLINA COURT OF APPEAL and PETITION OF VERIFIED COMPLAINT FOR THE UN-CONSTITUTIONALITY OF SOUTH CAROLINA CODE 44-48-10/170 and MEMORANDUM AND ARGUMENT IN SUPPORT OF PETITION OF COMPLAINT FOR THE UN-CONSTITUTIONALITY OF SOUTH CAROLINA CODE 44-48-10/170. by mailing a copy thereof to as addressed,

South Carolina
Attorney Generals Office
Alan Wilson
PO Box 11549
Columbia, SC 29211

SCDMH General Counsel
2414 Bull St.
Columbia, SC 29203

10, 10, 2013

William Deans

William Deans
7901 Farrow Rd.
Bldg. 3, 3rd. Floor
Columbia, SC 29203

RECEIVED

OCT 14 2013

SC Court of Appeals