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**Nov 20 2025**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from York County  
The Honorable Daniel Dewitt Hall, Circuit Court Judge  
The Hon. William A. McKinnon, Chief Administrative Judge

Appellate Case No. 2025-001916

In the Matter of the Care and Treatment of  
TYRELL JERMAINE NEELY,

Appellant.

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**STATE'S REPLY TO APPELLANT'S RETURN  
TO STATE'S MOTION TO DISMISS**

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ATTORNEYS FOR RESPONDENT

The State respectfully draws the Court's attention to the following:

1. Appellant TYRELL JERMAINE NEELY (Appellant) is being confined in the York County Detention Center pursuant to subsection 44-48-80(D) of the South Carolina Code (Supp. 2025), which provides, in pertinent part,

the court *must* direct that, upon completion of the criminal sentence, the person *must* be transferred to a local or regional detention facility *pending the conclusion of the proceedings under this chapter*.

(Emphasis added). Appellant's contention in his Return to Motion to Dismiss that, "the trial court has held appellant in the functional equivalent of contempt and has sanctioned appellant" (Ret.p.2) is incorrect. The trial court is complying with the statute. Appellant's argument is with the legislature, not with the State or the trial court.

2. Appellant confuses testimonial *admissibility* with expert utility. (Ret.pp.3-4). Nevertheless, his arguments concerning admissibility of references to penile plethysmograph (PPG) test results are not cognizable in this interlocutory appeal. When Appellant complies with the trial court's order to cooperate in the State's expert's evaluation, the State's expert may conclude that Appellant does not meet the statutory definition of Sexually Violent Predator.<sup>1</sup> If the State's expert reaches this conclusion, Appellant will have no reason to argue that *In the Matter of the Care and Treatment of Daily*, 443 S.C. 557, 905 S.E.2d 310 (Ct. App. 2024) (*cert. granted* Feb. 12, 2025) bars admission of that opinion, regardless of the degree to which that opinion may be based on the State's expert's consideration of PPG test results. This illustrates why interlocutory appeals of such matters are highly disfavored and, in South Carolina, severely limited by statute.

3. Appellant argues that subsection 14-3-330(3) of the South Carolina Code authorizes this

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<sup>1</sup> S.C. Code Ann. § 44-48-30(1) (2018 and Supp 2025).

interlocutory appeal. (Ret.pp.4–5). That subsection provides that South Carolina’s appellate courts,

shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:

....

(3) *A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment[.]*

(Emphasis added). Appellant dwells on his characterization of hearings and trials under the Sexually Violent Predator Act (SVPA)<sup>2</sup> as “special proceedings,” a contention questionable at best and, more to the point, one that overlooks the subsection’s limitation to “[a] final order affecting a substantial right” and “after judgment.” As noted at page 6 of the State’s Motion to Dismiss Notice of Appeal (hereinafter State’s Motion to Dismiss), “[t]he State concedes that the interests at stake in this SVPA proceeding are substantial.” Nevertheless, subsection 14-3-330(3) does not confer jurisdiction upon this Court to hear this interlocutory appeal because neither order at issue constitutes “[a] final order,” and no “judgment” concerning whether Appellant is an SVP has been reached.

4. Finally, Appellant asks this Court to pound the square peg of Appellant’s confinement pursuant to the SVPA into the round hole of subsection 14-3-330(1). (Ret.pp.5–6).

Subsection 14-3-330(1) provides South Carolina’s appellate courts with jurisdiction to hear,

[a]ny intermediate judgment, order or decree in a law case *involving the merits* in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from[.]

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<sup>2</sup> S.C. Code Ann. §§ 44-48-10 through 44-48-180 (2018 and Supp 2025).

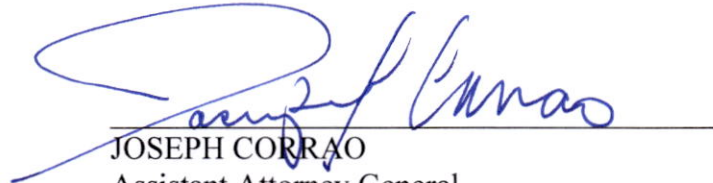
(Emphasis added). The orders at issue here do not “involv[e] the merits,” as that phrase is understood in subsection 14-3-330(1), and therefore are not immediately appealable under that subsection. *See* discussion in State’s Motion to Dismiss at pages 5–6.

THEREFORE, the State respectfully asks the Court of Appeals to dismiss Respondent’s notice of appeal of the Circuit Court’s Orders of July 31, 2024 and August 12, 2025 in York County Case No. 2021-CP-46-02853 because both orders are beyond the reach of interlocutory appeal.

Respectfully Submitted,

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Appeal from York County  
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Appellate Case No. 2025-001916

In the Matter of the Care and Treatment of  
TYRELL JERMAINE NEELY,

Appellant.

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**PROOF OF SERVICE**

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I, Abigail Hawley-Browder, certify I served the Respondent's Reply to Return to Motion to Dismiss Notice of Appeal on Appellant by sending it to their electronic mail to the address listed for counsel in AIS.

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I further certify that all parties required by Rule to be served have been served.

This 20<sup>th</sup> day of November, 2025.

  
ABIGAIL HAWLEY BROWDER  
Legal Assistant

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## Abigail Hawley-Browder

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**From:** Abigail Hawley-Browder  
**Sent:** Thursday, November 20, 2025 2:45 PM  
**To:** Alexander, David; gjohnson@sccid.sc.gov; wcarter@sccid.sc.gov; 'kjohnson@kjohnsonlawfirm.com'; thompson\_legal@aol.com  
**Cc:** Chris Runyan; Joseph Corrao; 'dbast@sccid.sc.gov'  
**Subject:** In the Matter of the Care and Treatment of Tyrell Jermaine Neely (2025-001916)  
**Attachments:** Neely - Reply to Return to Motion to Dismiss.pdf

Good afternoon,

Please see attached State's Reply to Appellant's Return to State's Motion to Dismiss for In the Matter of the Care and Treatment of Tyrell Jermaine Neely (2025-001916), to be filed with the Court of Appeals today.

Thank you,

*Abigail Hawley-Browder*, Legal Assistant  
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