

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

ORIGINAL

APPEAL FROM LEXINGTON COUNTY
J. Michael Baxley, Circuit Court Judge

Indictment Nos. 2011-GS-32-0242
2011-GS-32-0243
2011-GS-32-0244

EX PARTE:

South Carolina Department of Disabilities
and Special Needs, Appellant.

IN RE:

State of South Carolina, Respondent,

v.

Rocky A. Linkhorn, Respondent.

AFFIDAVIT OF DAVID A. GOODELL

PERSONALLY APPEARED BEFORE ME, DAVID A. GOODELL, who
being duly sworn, deposes and says:

1. I am the Associate State Director of Operations for the South Carolina Department of Disabilities and Special Needs ("DDSN"). I have held that position since March 2, 2006.

2. I have personal knowledge of the information contained in this affidavit.

3. I have been requested to assess the potential cost implications to DDSN resulting from the Order issued in the case of *State of South Carolina v. Rocky A. Linkhorn*.

4. In looking at the past three fiscal years, State Fiscal Year 2010-2011 through State Fiscal Year 2012-2013, DDSN has conducted 428 evaluations of criminal defendants to determine whether they are fit to stand trial or an average of 143 per year. Of that number, 148 persons were found to be unfit to stand trial due in part to an intellectual disability or related disability which averages 49 per year. Of that number, only five were initially placed in GeoCare, which is a private correctional facility that provides care in a secure, highly restrictive, locked setting. This averages slightly less than two GeoCare placements per year.

5. A placement in GeoCare currently costs DDSN an average of \$350.00 per day or approximately \$127,750.00 per year for each client placed in that facility. The costs for placement in GeoCare must be paid solely with state funds. Medicaid provides no reimbursement for any placements in GeoCare. Virtually all

other DDSN placements generate Medicaid revenue which covers approximately 70% of the placement cost. GeoCare is the only secure facility that DDSN has access to.

6. If DDSN had been required to place into GeoCare all of the 49 persons found to be unfit to stand trial due in part to an intellectual disability or related disability annually over the past three fiscal years, I have calculated to a reasonable degree of certainty that DDSN would have incurred approximately \$5.9 million on an annual basis in additional costs. This calculation takes into account and deducts the costs of using residential facilities as an alternative to GeoCare that DDSN would have reasonably been expected to incur in the absence of the *Linkhorn* Order. This additional cost could increase incrementally for as many years as the *Linkhorn* Order remained in effect (e.g., 1st year - \$5.9 million, 2nd year - \$11.8 million, 3rd year - \$17.7 million). DDSN does not have sufficient funding in its budget to accommodate this cost increase. Services to hundreds of vulnerable individuals currently served by DDSN would have to be discontinued to accommodate this cost increase.

7. Currently DDSN has approximately 8,000 persons on its waiting lists for services. The sum of \$5.9 million in additional state funding necessary to place every individual judicially admitted to DDSN based upon a finding of being unfit to stand trial for just one year is the approximate funding that would be needed to

serve 1,479 persons currently on the waiting lists taking into account that most of those potential clients on the waiting list would be Medicaid eligible and therefore DDSN receives approximately 70% reimbursement from Medicaid for a majority of those clients.

8. I have also looked at the number of clients currently served by DDSN who have been judicially admitted. DDSN currently has 159 clients who have been judicially admitted based upon a court finding them unfit to stand trial. Of that number, only 7 are currently placed at GeoCare, 80 are placed in other DDSN funded residential settings, 32 are receiving in-home services in addition to service coordination and 40 are receiving service coordination only. If the *Linkhorn* Order is made applicable to all current judicially admitted clients, the maximum additional state dollar cost that DDSN would annually bear is approximately \$17 million. DDSN also does not have sufficient funding to accommodate this additional cost. To place all current judicially admitted individuals in GeoCare would require DDSN to discontinue services to thousands of vulnerable individuals. IF DDSN received new funding in this amount, it could be used to serve approximately 5,100 potential clients currently on waiting lists awaiting DDSN services.

9. DDSN does not currently operate a forensics unit or secured lock-up facility that can house criminal defendants as required by the *Linkhorn* Order.

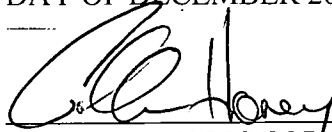
DDSN has never been provided the initial funding or recurring appropriations by the South Carolina General Assembly to build or operate a forensics unit or secured lock-up facility.

FURTHER, AFFIANT SAYETH NOT.



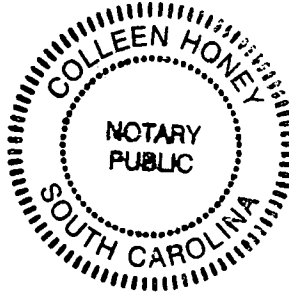
DAVID A. GOODELL

SWORN TO BEFORE ME THIS 10TH
DAY OF DECEMBER 2013



(SEAL)

NOTARY PUBLIC FOR
SOUTH CAROLINA



COMMISSION EXPIRES: 9-25-17