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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Alex Kinlaw, Jr., Circuit Court Judge

Unpublished Opinion No. 2026-UP-022
(S.C. Ct. App. January 28, 2026)

Jevon Kenneth Carter, Petitioner
In re:
State of South Carolina, Respondent,
v.
Jevon Kenneth Carter, Respondent/Appellant/Petitioner.

JEVON CARTER'S PETITION FOR WRIT OF CERTIORARI

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CERTIFICATE OF COUNSEL

Counsel submits that he has preserved the issues discussed herein for appeal and that he timely filed a petition for rehearing after the Court of Appeals issued its Order in this case. The Court of Appeals filed its decision on January 28, 2026, and Petitioner petitioned for rehearing and rehearing *en banc* on February 12, 2026. On May 29, 2026, the Court of Appeals filed an Order denying the Petition for Rehearing. This Petition timely follows pursuant to Rule 242 of the South Carolina Rules of Appellate Procedure.

QUESTIONS PRESENTED

I. **Did the Court of Appeals err in affirming the circuit court's denial of Petitioner's release to outpatient treatment where the only evidence of record was the uncontradicted testimony of two qualified expert psychiatrists that continued hospitalization was no longer required?**

II. Did the Court of Appeals err in affirming the circuit court's unconstitutional reliance on conduct that predated Petitioner's treatment and evaluation by the South Carolina Department of Mental Health (SCDMH)?

III. Did the Court of Appeals err in affirming the circuit court when it invoked the inadequacy of proposed conditions of release to outpatient treatment as a basis for sustaining continued hospitalization?

STATEMENT OF THE CASE

This case involves the continued involuntary civil commitment of Petitioner Jevon Kenneth Carter, a young man found Not Guilty by Reason of Insanity ("NGRI") who, by every clinical measure, has been fully stabilized, is no longer in need of hospitalization, and has been recommended for discharge by the South Carolina Department of Mental Health ("SCDMH")—the very agency statutorily charged with his care and treatment.

On August 28, 2020, Petitioner was arrested for murder, burglary, and possession of a weapon during the commission of a violent crime in Greenville County related to the murder of his paternal great-aunt, Ms. Frances Mattison. (R. pp. 337-38.) He was evaluated by the SCDMH, which determined he suffered from Schizoaffective Disorder, Bipolar Type. (R. pp. 344-45.) By stipulation of both parties, the Honorable Perry H. Gravely conducted a bench trial on June 8, 2022, and adjudicated Petitioner Not Guilty by Reason of Insanity pursuant to S.C. Code § 17-24-40. (R. pp. 4-5.) Pursuant to that adjudication and by statute, Petitioner was admitted to the SCDMH on August 16, 2022. (R. p. 366.)

On November 10, 2022, the SCDMH rendered its first Request for Discharge Report, relaying to the circuit court that Petitioner was no longer in need of inpatient treatment pursuant to S.C. Code § 44-17-580. (R. pp. 357-63.) The Honorable Perry H. Gravely conducted a hearing on December 8, 2022, and in an Order dated January 9, 2023, declined to accept the SCDMH's recommendation. (R. p. 10.) Neither party appealed at that time.

On July 7, 2023, the SCDMH renewed its medical recommendation that Petitioner was no longer in need of hospitalization. (R. p. 370.) The Honorable Alex Kinlaw, Jr. conducted a discharge hearing, on August 30, 2023, at which the SCDMH presented the testimony of two qualified forensic psychiatry experts: Dr. Jennifer Alleyne, Petitioner's attending psychiatrist at

the SCDMH, and Dr. Richard Frierson, the Alexander G. Donald Professor of Psychiatry and Vice Chair for Academic Affairs at the University of South Carolina School of Medicine. (R. pp. 19-20, 79-80.) Both were qualified without objection. The Respondent offered no witnesses.

Both Dr. Alleyne and Dr. Frierson testified exclusively and unequivocally that Petitioner (1) had sufficient insight and capacity to make responsible decisions regarding his treatment; (2) was not a danger to himself or others; and (3) was no longer in need of hospitalization. (R. p. 26, line 7–p. 27, line 8; p. 27, line 10–p. 28, line 1; p. 33, lines 2-5; p. 33, lines 6-10; p. 65, lines 5-7; p. 87, lines 6-17; p. 89, lines 3-22; p. 91, lines 7-8; p. 92, line 17–p. 93, line 5; p. 99, lines 13-17; p. 369.)

The circuit court entered its Order, on October 31, 2023, finding "by clear and convincing evidence that the Defendant is still in need of inpatient treatment." (R. pp. 1-2.) The Order identified no specific evidentiary support and offered no rationale for rejecting the unanimous expert testimony—it contained only a bare recitation of the statutory factors. *Id.* Both Petitioner and the SCDMH appealed. The entirety of the substantive portion of that Order reads as follows:

> In making its determination, the Court has reviewed and considered the Briefs and Memoranda submitted by the parties, arguments made at the hearing, the Violence Risk Assessment and other supporting documentation submitted at both the August 30 2023 and the December 8, 2022 hearing, the Courts previous orders in this case, and the testimonies of Dr. Jennifer Alleyne and Dr. Richard Frierson.
>
> Based on this review, the Court finds by clear and convincing evidence that the Defendant is still in need of inpatient treatment pursuant to the standard of §44-17-580(A). The Court finds that the Defendant is mentally ill; needs involuntary treatment; and because of his condition lacks insight or capacity to make responsible decisions regarding treatment; and there is a likelihood of serious harm to himself or others. Therefore, the Court orders that Defendant continue with inpatient treatment and be committed to the appropriate facility of SCDMH for further treatment.

Id.

In its Order dated January 28, 2026, the Court of Appeals affirmed the circuit court. The Court of Appeals concluded that the circuit court's "hesitation to release Carter to his grandmother's care after only a short period of compliance is understandable" and referenced a "history of past elopements" as a supporting factor. The Court of Appeals' entire analysis reads:

> We find there is sufficient evidence to support the circuit court's decision. Considering all the evidence in the record, the court's hesitation to release Carter to his grandmother's care after only a short period of compliance is understandable: he has a history of elopements from custody, a history of refusing his medications, and he committed an extremely violent offense during a previous elopement. In addition, DMH provided the court with very little information about his grandmother. Dr. Alleyne performed only a "virtual tour" of her residence and gave no information to the court about how she might be equipped to provide the "stable environment" Carter requires. The record contains no information about her age or health condition, whether she works or is retired, or whether she has a positive relationship with Carter. These are facts which would seem of obvious importance to the court for both her safety and Carter's. While the State did not present its own expert witness, the statutory scheme does not require the State to do so. Rather, the statute contemplates that the hearing judge will consider the expert testimony and then exercise independent discretion. Otherwise, there would be no need for a judicial hearing and DMH would be free to make decisions regarding treatment and release without court
> approval.

State v. Carter, 2026-UP-022, pp. 6-7 (S.C. Ct. App. Jan 28, 2026).

The Court of Appeals denied Petitioner and SCDMH's separate requests for rehearing and rehearing *en banc* on May 29, 2026. This Petition timely follows pursuant to Rule 242 of the South Carolina Rules of Appellate Procedure.

STATEMENT OF THE FACTS

Jevon Kenneth Carter was nineteen years old when he arrested; he is now twenty four. (R. p. 366.) Prior to the onset of his mental illness, he was an honor roll student, a multi-sport athlete, and was enrolled in the Clemson Bridge Program for the Fall of 2020. (R. pp. 343, 353.) He had no history of antisocial behavior or violence outside the index offense. (R. p. 90, lines 9-13; p. 91, lines 2-3; pp. 349-50.)

His mental illness did not manifest until the Spring of 2020, when a latent, genetic predisposition was triggered by the traumatic death of his girlfriend, who fell from a waterfall in Sunset, South Carolina at a time when Petitioner was not present. (R. pp. 339-40, 344.) The disease manifested entirely without prior behavioral context or precedent. He literally did not know he was sick—no one did. (R. p. 87, line 24–p. 88, line 17.)

On July 3, 2020, Petitioner was admitted to Marshall Pickens Hospital for the first time—newly diagnosed and with no treatment. (R. p. 87, line 13–p. 88, line 5; pp. 339-40, 344.) He eloped from Marshall Pickens within one day of admission, and again four days later—meaning the facility had treated him for fewer than three days total when both elopements occurred. (R. pp. 340-41.) A complete diagnosis and treatment at that point was impossible. The index offense occurred during the first elopement, less than a day after admission, and while Petitioner was still undiagnosed and untreated.

It has been a terrible tragedy for both families and Petitioner.

After his arrest and pursuant to the NGRI adjudication detailed above, Petitioner was admitted to the SCDMH on August 16, 2022. (R. p. 366.) His performance over the following fourteen months was exceptional and, in the professional judgment of his treating physicians, essentially without precedent at the Bryan Forensic Unit. Verbatim from Dr. Frierson's report:

"He is described as a model patient." (R. p. 351.) Petitioner's attending psychiatrist testified he was "one of the most responsible" and "most compliant" patients she had treated in six years at the facility. (R. p. 34, lines 17–p. 35, line 5.)

Specifically, the record before the circuit court established, uncontradicted:

- Petitioner has exhibited zero violence or aggression during his entire time at SCDMH. (R. p. 35, lines 1-9; p. 92, lines 4-15; p. 93, lines 1-5; p. 368 ("Mr. Carter . . . has had no verbal or physical altercations on the unit.").)
- Petitioner has had no compliance or disciplinary issues at SCDMH. (R. p. 92, lines 4-7; p. 368 ("Mr. Carter has consistently followed unit rules, interacts appropriately with staff and peers . . . .").)
- Petitioner has no current symptoms of mental illness, no mood instability, and no violent ideations. (R. p. 91, lines 8-11.)
- Petitioner has been on a stable medical regimen since at least July 5, 2021. (Compare R. p. 342 with p. 367.)
- Since February 9, 2023, Petitioner has been on self-administered medication and has never missed a dose. (R. p. 30, lines 7-23; p. 34, lines 4-5; p. 40, lines 1-2; p. 87, lines 21-23; p. 92, lines 4-6; p. 369.)
- Petitioner cannot derive any additional benefit from further hospitalization. (R. p. 32, line 18–p. 33, line 1; p. 99, lines 13-25.)
- Petitioner advanced through each level of SCDMH care without incident and without repeating a stage. (R. pp. 368-69; p. 35, lines 2-3.)

- Petitioner has expressed repeated remorse for the death of Ms. Mattison—who was his own paternal great-aunt—and lives with that reality every day. (R. p. 121, lines 6-9; p. 46, lines 7-8; p. 88, lines 2-17; p. 89, lines 14-15.)

Dr. Alleyne testified that Petitioner "has sufficient insight with which to treat himself on an outpatient basis" (R. p. 27, lines 5-8) and would not be a danger to himself or others if discharged under the current treatment regimen. (R. p. 27, line 9–p. 28, line 1.)

Dr. Frierson, after conducting an independent violence risk assessment at the SCDMH's request, testified that Petitioner's insight was "98 percent better" than at the onset of his illness (R. p. 88, lines 11-17), that he "has not been in altercations at all" during his hospitalization (R. p. 92, line 21–p. 93, line 5), and that "[t]o a reasonable degree of certainty . . . Mr. Carter is no longer in need of hospitalization." (R. p. 65, lines 5-7; p. 99, lines 13-17.) He further concluded that Dr. Alleyne's evaluation was "much more than adequate" to support the discharge recommendation. (R. p. 100, line 9–p. 101, line 1.)

At the time of the hearing before the circuit court, there were approximately forty-seven individuals charged with murder or attempted murder who have been discharged from the SCDMH. (R. p. 35, lines 20-25.) Petitioner's release to further outpatient treatment would not be anomalous. The SCDMH—not a prisoner advocacy organization, but the agency statutorily mandated with his care—appears as co-appellant because it agrees his continued confinement is legally indefensible and therapeutically detrimental; that State Agency is daily being forced to violate the law, Petitioner's constitutional rights, and expert clinical recommendations.

ARGUMENT

Certiorari is appropriate because the Court of Appeals' decision involves (1) substantial constitutional questions concerning the liberty of a person legally adjudicated not guilty of any crime; (2) conflicts with binding United States Supreme Court precedent; and (3) if left undisturbed, creates a framework by which circuit courts may indefinitely confine NGRI patients regardless of the quality of clinical evidence.

This appeal represents more than adamant dispute with legal error below. Petitioner Jevon Carter is suffering an active constitutional, physical, and psychological injustice, which undersigned counsel and the SCDMH have spent years pleading courage from our judiciary and executive branch to cure. But, this case and appeal are not begging a courage of some extraordinary kind, like a departure from *stare decisis* or an outcome in equity where law requires different. Rather, Counsel for Jevon and SCDMH, have been asking the lower courts to simply apply the statutory and constitutional law as the General Assembly, this Court, and the United States Supreme Court have so expressly propounded it.

Petitioner is precisely the kind of individual our NGRI statute and process, as prescribed by this Court in its April 24, 2014, Administrative Order, was intended to serve. Petitioner is the quintessential beneficiary – a devastating victim of his own mental health issues yet receptive to treatment and rehabilitation in a way that ought to afford him a future and a life. As this very Court has recognized, Appellant is "***not considered [a] 'prisoner[],'*** *as [he] ha[s]* ***not been found guilty of a crime***." (S.C. S. Ct. Administrative Order, *Re: Interagency Protocol for Defendants Found Not Guilty by Reason of Insanity*, dated April 24, 2014, at 2 (emphasis added).) Petitioner is a patient for whom the record has indicated, with uniform and superlative consensus, is no longer in need of inpatient hospitalization. His ongoing and forced commitment, therefore, is illegal.

I. The Court of Appeals erred in affirming the circuit court where uncontradicted expert testimony established by clear and convincing evidence that Petitioner no longer needs hospitalization, and the Respondent offered no contrary evidence.

The Court of Appeals first erred in finding that there was "sufficient evidence to support the circuit court's decision. Considering all the evidence in the record, the court's hesitation to release Carter to his grandmother's care after only a short period of compliance is understandable . . ." *State v. Carter*, 2026-UP-022, pp. 6-7 (S.C. Ct. App. Jan 28, 2026). This case is evidentiarily rare: there are not two sides. Not only is there not "sufficient evidence" to support the circuit court's decision – there was *no* evidence. This claim is not made in zealous advocacy or puffery; it is the naked truth about the record. Respectfully, the lower courts have refused to simply confess what is the only obvious characterization of the evidence and testimony proffered – that it is preposterously one-sided.

Without citing a single evidentiary basis, the circuit court concluded that the Petitioner "needs involuntary treatment; and because of his condition lacks insight or capacity to make responsible decisions regarding treatment; and there is a likelihood of serious harm to himself or others." (R. pp. 1-2.) That conclusion was against literally the *entirety* of the sworn testimony at the hearing – (1) that Petitioner had unprecedented insight into his illness sufficient to make responsible treatment decisions (R. p. 26, line 7–p.27, line 8; p. 33, lines 2-5; p. 87, lines 6-17; p. 89, lines 3-22; p. 91, lines 7-8); (2) was not a substantial risk of harm to himself or others, (R. p. 27, line 10–p.28, line 1; p. 33, lines 6-10; p. 35, lines 6-9; p. 92, line 17-p.93, line 5); and (3) was no longer in need of hospitalization, (R. p. 65, lines 5-7; p. 99, lines 13-17; p. 369).)

In other words, the circuit court's findings could never possibly be characterized as being supported by "sufficient evidence" as the Court of Appeals found — they were affirmatively

contradicted by *all* the evidence. The State presented no witnesses, no contrary expert evaluation, and no contradicting evidence of any kind. The record admits of only one lawful conclusion.

To sustain continued hospitalization, the circuit court was required to find "clear and convincing evidence" of a continuing need for involuntary commitment. S.C. Code § 44-17-580(A); *see also Addington v. Texas*, 441 U.S. 418, 427 (1979). The statutory test for continued commitment requires the court to find that the patient (1) lacks "insight or capacity to make responsible decisions with respect to his treatment," and (2) poses "a likelihood of serious harm to himself or others." S.C. Code § 44-17-580. The statute defines "likelihood of serious harm" to require a "substantial risk of physical harm" evidenced by actual threats, attempts, or violent behavior. S.C. Code § 44-23-10(13).

On the first prong, both experts testified without contradiction that Petitioner has the most exceptional insight into his illness, treatment regimen, warning signs of decompensation, and the necessity of lifelong medication compliance. (R. p. 26, line 7–p. 27, line 8; p. 33, lines 2-5; p. 87, lines 6-17; p. 89, lines 3-22; p. 91, lines 7-8; pp. 368-69.) Dr. Frierson testified his insight was "98 percent better" than when first diagnosed. (R. p. 88, lines 11-17.) **Petitioner is one of the most courteous, polite, highest functioning, and well-adjusted individuals Drs. Alleyne and Frierson have ever treated or observed at the Bryan Forensic Unit.** (R. p. 34, lines 20-25; p. 35, lines 1-5; p. 97, lines 16-22; pp. 351, 368-69.)

Dr. Alleyne testified:

Q: In your six years, how does Mr. Carter's responsibleness compare to other patients that have been there at the hospital?

Dr. Alleyne: He is one of the more responsible patients I've taken care of.

Q: And in his compliance, how does he compare to other patients you supervise?

Dr. Alleyne: He is one of the most compliant patients. He is on top of his medications every day.

Q: And in his behavior, how does he compare?

Dr. Alleyne: He has had no behavioral incidents, no band demotions. I would say that he is one of the most well behaved. The staff always describe him as polite and respectful.

(R. p. 34, line 17-p. 35, line 5.)

Likewise, Dr. Frierson Testified:

> He is a very high functioning patient. And he doesn't display the sort of negative symptoms that a lot of patients with major mental illness have. What I mean by that, he has social skills. He can engage in joking conversations, enjoying life. He maintains his hygiene without any problem. He's able to physically take care of his grooming, that kind of thing.

(R. p. 97, lines 16-22.)

The record is literally replete with testimony of the Petitioner's insight into his mental illness and concomitant treatment (R. p. 26, line 7–p.27, line 8; p. 33, lines 2-5; R. p. 58, lines 16-21; p. 64; p. 92, lines 4-15; p. 87, lines 6-17; p. 89, lines 3-22; p. 91, lines 7-8; R. p. 363; pp. 368-69 ("Mr. Carter is adherent with all prescribed medications and has expressed the importance of remaining on medications upon discharge.").)

Indeed Petitioner, was made fully responsible for the self-administration of his own medical regimen to demonstrate the depth of his insight, a privilege essentially unprecedented at SCDMH:

> Mr. Carter was placed on self-administered medication protocol as of February 9, 2023. He has had no difficulty with presenting to the medication room at the appropriate times, informing the nurse what medication he is to take opening the blister pack, and taking the medication. Mr. Carter has demonstrated his ability to take responsibility for knowing what medications to take at what time of day which he will be responsible for once in the community.

(R. p. 369; see also R. p. 30, lines 7-23; p. 34, lines 4-5; p. 40, lines 1-2 (affirming Appellant has never missed a single dose of medication); p. 87, lines 21-23; p. 92, lines 4-6.)

As to the second prong and whether Petitioner poses a substantial risk of harm to himself or others, the record is equally lopsided. Petitioner has exhibited no violence, no threats, no altercations, no homicidal or suicidal ideations during his entire tenure at SCDMH. (R. p. 35, lines 6-9; p. 91, lines 8-9; p. 92, lines 4-15; p. 93, lines 1-5; p. 368.) *None*.

1. **Petitioner has exhibited *no violence or aggression* during his time at SCDMH, since August 16, 2022** (R. p. 35, lines 6-9; p. 92, lines 4-15; p. 93, lines 1-5; p. 368 ("Mr. Carter . . . has had no verbal or physical altercations on the unit.").

2. **Petitioner has had *no compliance or disciplinary issues* at the SCDMH**, (R. p. 92, lines 4-7; p. 368 ("Mr. Carter has consistently followed unit rules, interacts appropriately with staff and peers . . . .")).

3. **Petitioner has no "current symptoms of mental illness."** (R. p. 91, lines 9-10.)

4. **Petitioner has no** "**mood instability**." (R. p. 91, lines 10-11.)

5. **Petitioner has no "violent ideations**." (R. p. 91, lines 8-9.)

Both Drs. Alleyne nor Dr. Frierson testified Petitioner is not a serious harm to himself or others. (R. p. 27, line 10-p.28, line 1; p. 33, lines 6-10; p. 92, line 17-p. 93, line 5; pp. 368-69.)

It was an avalanche of unrebutted testimony that hospitalization is no longer necessary. (R. p. 65, lines 5-7; p. 99, lines 13-17; p. 369.) Counsel for Petitioner reiterates the record citations not to repeat itself but to emphasize that there is no possible basis to conclude, as the Court of Appeals has done, that there was "sufficient evidence to support the circuit court's decision". *Carter*, 2026-UP-022, p. 6. That conclusion is orthogonal to the actual record and not based on "clear and convincing evidence" of a continuing need for involuntary commitment. S.C. Code § 44-17-580(A). Very respectfully, an affirmation of the circuit court order is simply unjustifiable.

II. The Court of Appeals erred in affirming the circuit court's reliance on conduct that occurred prior to treatment by the South Carolina Department of Mental Health (SCDMH) to sustain continued hospitalization, in violation of the Not Guilty By Reason of Insanity (NGRI) statute, this Court's Administrative Order, and federal constitutional law.

Because there was literally no clinical or testimonial evidence of an active need for continued hospitalization presented at the circuit court hearing, the Court of Appeals necessarily had to make recourse to Petitioner's "history of past elopements," occurring at the time of the underlying offense, as a supporting factor, (a factor the circuit court itself never mentioned). *Carter*, 2026-UP-022, p. 6. Counsel has desperately tried, at oral argument and on motion for rehearing, to emphasize the constitutional impermissibility of this kind of reasoning. The elopement, upon which the Court of Appeals would now unilaterally justify the indefinite and ongoing incapacitation of Petitioner, occurred at Marshall Pickens Hospital in the summer of 2020—at the literal *onset* of an entirely undiagnosed and untreated disease—before any arrest, before any NGRI adjudication, and years before his admission to the SCDMH. (R. pp. 340-41.) As described above, Petitioner had been at Marshall Pickens less than 24 hours, without treatment, at the time of the index offense. (R. pp. 340-41.)

The Court of Appeals' reliance, therefore, on Petitioner's elopements or general performance at Marshall Pickens is necessarily legal error for the following reasons.

First, the United States Supreme Court has made clear that courts cannot make recourse to the underlying incident offense and surrounding circumstances to hold an individual indefinitely. *Jones v. United State*, 463 U.S. 354, 369 (1983) could not be any more direct: "There simply is no necessary correlation between severity of the offense and length of time necessary for recovery." *Id*. The United States Supreme Court has ruled that to conclude otherwise leads directly to the risk of indefinite confinement in essentially every instance, which is constitutionally impermissible:

> Here, in contrast, the State asserts that because Foucha once committed a criminal act and now has an antisocial personality that sometimes leads to aggressive conduct, a disorder for which there is no effective treatment, he may be held indefinitely. This rationale would permit the State to hold indefinitely any other insanity acquittee not mentally ill who could be shown to have a personality disorder that may lead to criminal conduct. The same would be true of any convicted criminal, even though he has completed his prison term.

Foucha v. Louisiana, 504 U.S. 71, 82-83 (1992).

Second, it is the Department of Mental Health and not Marshall Pickens or some other entity that has the statutory NGRI mandate. *See* S.C. Code § 17-24-10; S.C. Code § 17-24-40; S.C. Code § 44-17-580. The continuing need for the Petitioner's hospitalization is only evaluated after admission to, and evaluation by, the SCDMH. *See id*. The success or failure of Marshall Pickens' efforts, literally within hours of Petitioner's nescient diagnosis, are simply not relevant to whether years later Petitioner is in need of hospitalization after the care and assessment of SCDMH.

Thirdly, as stated, the statute is prospective: "***If at a later date,*** it is determined by officials of the State Hospital that the person is no longer in need of hospitalization, the officials *must* notify the chief administrative judge . . . ." S.C. Code 17-24-40(B) (emphasis added). The relevant question is whether, at any present subsequent moment *after* initial hospitalization *with the SCDMH*, to wit "the State Hospital", *id*., the Petitioner is no longer in need of hospitalization and, if he is, he must be released on some conditions. And, this is the tragedy of the lower courts' rulings, it is literally anticipated, indeed hoped, by the entire statutory mechanism and this Supreme Court that NGRI patients would be restored and no longer require hospitalization. The Appellant is "***not considered [a] 'prisoner[],'*** *as [he] ha[s]* ***not been found guilty of a crime***." (S.C. S. Ct. Administrative Order, dated April 24, 2014, at 2 (emphasis added).) And, "After conducting the hearing, if the Judge determines that the Defendant **IS NOT** in need of continued hospitalization,

he shall issue an Order releasing the Defendant to the custody of the SCDMH for care and treatment under such terms and conditions as shall be appropriate." *Id*. at 3.

Lastly, and as emphasized, the Petitioner's elopements from Marshall Pickens happened at the very moment the Petitioner was first diagnosed. (R. p. 87, line 13-p. 88, line 5; pp. 339-40, 344.) He had received essentially no treatment. *Id*. The Petitioner's disease was latent in him as of July 3, 2020, when he was admitted to Marshall Pickens. (R. p. 87, line 13-p. 88, line 5; pp. 339-40, 344.) It manifested very unexpectedly. (R. pp. 339-40, 344.) He literally did not know he was sick. No one did. (R. p. 88, line 2.) The first elopement happened within *one* day of his admission to Marshall Pickens, and the second, four days later. (See R. pp. 340-41.) And, so Marshall Pickens had been treating him for less than three days total (excluding time away from the facility) when both elopements occurred. *Id*. A full diagnosis, understanding, and treatment by Marshall Pickens, of the Petitioner, or any healthcare provider was literally impossible.

By contrast, for well over two years (and unequivocally over the last two years in the SCDMH), he has been responsive to medical treatment and now at the corroboration of experts – designated by the State of South Carolina -- who do this every day and **who have the statutory mandate**. His need for hospitalization must be assessed now, in the subsequent care of the SCDMH, and not as of the literal day he was diagnosed over 5 years ago. To allow circuit courts to perpetually make recourse to the severity or circumstances of the underlying incident offense, in order to deny discharge, is repugnant to the holdings of the United States and South Carolina Supreme Courts and the legislative act inherent in the NGRI statute.

And, the Court of Appeals was incorrect to describe the Petitioner's time with SCDMH as "only a short period of compliance . . . ." *Carter*, 2026-UP-022, pp. 8, 9. Respectfully, the Appellant had been in the care of the South Carolina Department of Mental Health since August

16, 2022, or 14 months as of the time of the circuit court's order denying discharge exhibiting literally unprecedented performance with zero altercations or violence or relapses. Moreover, the SCDMH is statutorily and constitutionally *required* to seek his discharge once hospitalization is no longer required: "If at a later date it is determined by officials of the State Hospital that the person is no longer in need of hospitalization, the officials *must* notify the chief administrative judge . . . ." S.C. Code 17-24-40(B). It is unconstitutional to hold him a second longer. There is nothing about his time with SCDMH, which could ever be described as short, noncompliant, or insufficient.

III. The Court of Appeals erred in affirming the circuit court on the basis of the inadequacy of the proposed outpatient treatment plan—a ground the circuit court never invoked—when conditions of release are irrelevant to the threshold hospitalization inquiry.

The Court of Appeals concluded that the circuit court's "hesitation to release Carter to his grandmother's care after only a short period of compliance is understandable." *Carter*, 2026-UP-022, p. 6. In support the court found that

> DMH provided the court with very little information about his grandmother. Dr. Alleyne performed only a "virtual tour" of her residence and gave no information to the court about how she might be equipped to provide the "stable environment" Carter requires. The record contains no information about her age or health condition, whether she works or is retired, or whether she has a positive relationship with Carter. These are facts which would seem of obvious importance to the court for both her safety and Carter's.

Carter, 2026-UP-022, p. 7.

As an initial matter, the entirety of the circuit court's substantive ruling contains no mention of the discharge plan, proposed conditions of release, Petitioner's grandmother, or any concern about proposed placement. The circuit court premised its ruling exclusively on findings that Petitioner lacked insight into his treatment and that there was a likelihood of serious harm, which was not supported by the record as detailed above. (R. pp. 1-2.)

Second, *the circuit court spoke directly to Petitioner's grandmother at the discharge hearing about the very things for which the Court of Appeals says there is no record, including her work and work schedule, relationship to Petitioner and family, and circumstances at the residence*. (R. pp. 120-24.) Again, it is reasonable that the Court of Appeals might have missed this part of the record because the circuit court, itself, did ***not*** in any respect rely on concerns related to the conditions of discharge in its order. But, its ruling that SCDMH failed to provide such information is incorrect. The grandmother was queried directly. *See id*.

Third, and most importantly, the conditions of release are not relevant to the threshold hospitalization inquiry. The NGRI statutory scheme establishes two sequential, mutually exclusive inquiries. The first is whether the patient is "in need of continued hospitalization." S.C. Code § 17-24-40(C)(2)(c). Only if the court answers that question in the negative does it reach the second: on what conditions should the patient be released? S.C. Code § 17-24-40(C)(2)(c) & (D). This Court's own Administrative Order is emphatic: "After conducting the hearing, if the Judge determines that the Defendant IS NOT in need of continued hospitalization, he *shall* issue an Order releasing the Defendant to the custody of the SCDMH for care and treatment under such terms and conditions as shall be appropriate." (Administrative Order at 3 (emphasis added).)

The second inquiry does not inform the first. By statutory design, it cannot arise until the first is resolved. If a circuit court disagrees with the SCDMH's proposed conditions, it may order different conditions of its own design. *See* S.C. Code § 17-24-40(D). What it may not do is hold a legally innocent person in a hospital indefinitely because it prefers different conditions of release. *See Foucha*, 504 U.S. at 77.

Moreover, the statute itself reflects that discharge is both anticipated and required when the clinical predicate is satisfied. S.C. Code § 17-24-40(B). To hold Petitioner beyond the point at

which hospitalization is no longer clinically required is unconstitutional. *Foucha*, 504 U.S. at 77; *Vitek v. Jones*, 445 U.S. 480, 493 (1980) (involuntary commitment imposes consequences "qualitatively different" from ordinary incarceration); *see also Olmstead v. L.C.*, 527 U.S. at 582. And, the circuit court, itself, is tasked with ordering such conditions. To the extent, the circuit court had reservations about the Petitioner's grandmother or the discharge plan, as proposed by SCDMH, in any respect, it could have (1) ordered other conditions, including the placement of the Petitioner in a residential living facility or (2) ordered the parties to propose additional plans from which to choose. But, once Petitioner satisfied the first prong – that he has sufficient insight and is no longer a danger – it is unconstitutional to hold him in the hospital. That is what United States Supreme Court precedent like *Foucha*, 504 U.S. at 77 and *Olmstead v. L.C.*, 527 U.S. 581, 582 (1999) teaches, and, this Supreme Court has made express, (S.C. S. Ct. Administrative Order, dated April 24, 2014, at 3).

CONCLUSION

The record in this case speaks with unmistakable clarity. Every qualified expert who examined Petitioner concluded, without reservation, that he no longer needs hospitalization—that his illness is fully treated and controlled, that he has exceptional insight into his condition and treatment, and that he poses no likelihood of serious harm to himself or others. The SCDMH, the agency statutorily charged with his care, not only recommended his discharge but joined him as a co-appellant in this Court. The Respondent produced no contrary evidence.

The Court of Appeals nonetheless affirmed by invoking grounds the circuit court never relied upon—the discharge plan—and by crediting conduct that predated Petitioner's SCDMH admission by years. In so doing, it sanctioned a framework that renders the NGRI process effectively meaningless: no matter how well a patient performs and no matter how clearly the evidence favors discharge, a circuit court may deny release indefinitely by pointing to the underlying offense or pre-treatment conduct. That is precisely what constitutional precedent and our State statute prohibits.

The issues presented are of exceptional importance. They implicate the liberty interests of a legally innocent individual, the constitutional limits of civil commitment, and the proper functioning of South Carolina's NGRI system as established by the General Assembly and effectuated by this Court's own Administrative Order. The decision of the Court of Appeals conflicts with binding federal constitutional precedent and, if left undisturbed, will work an ongoing and irreparable constitutional violation against Petitioner and future NGRI patients.

The Petitioner respectfully requests that this Court grant *certiorari*, review this case, and reverse the decisions of the Court of Appeals and the circuit court, with directions to order

Petitioner released upon appropriate conditions as provided by S.C. Code § 17-24-40(D) and this Court's April 24, 2014 Administrative Order.

Respectfully Submitted,

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