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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO THE COURT OF APPEALS
Appeal From Greenville County
The Honorable Alex Kinlaw, Jr., Circuit Court Judge
Appellate Case No. 2026-001422

Ex Parte: South Carolina Department of Mental Health, ... Petitioner-Respondent.

In re:

The State, ... Respondent,

v.

Jevon Kenneth Carter, ... Respondent-Petitioner.

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

RETURN TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF THE CASE

Respondent-Petitioner, Jevon Kenneth Carter (Carter), was indicted at the August, 2021 term of the grand jury for Greenville County for murder and possession of a weapon during the commission of a violent crime (R. 263), and burglary in the first degree (R. 265). On July 5, 2021, Carter was evaluated by Petitioner-Respondent, the South Carolina Department of Mental Health (SCDMH), for criminal responsibility and capacity to conform his conduct to the requirements of the law. In a written report dated October 4, 2021, SCDMH diagnosed Carter with Schizoaffective Disorder – Bipolar Type and found "sufficient evidence that [Carter] has a serious mental illness that would have substantially impaired his ability to distinguish legal or moral right from legal or moral wrong." (R. 346).

On June 8, 2022, Carter proceeded to a bench trial at the Greenville County Courthouse before the Honorable Perry H. Gravely. The trial court adjudicated Carter not guilty by reason of insanity (NGRI) pursuant to S.C. Code Ann. § 17-24-40. (R. 3). On August 16, 2022, Carter was admitted to the custody of SCDMH.

On November 10, 2022, SCDMH issued a "Request for Discharge Report" and advised the circuit court it believed Carter was no longer in need of inpatient treatment. (R. 357). On December 8, 2022, a hearing was held before the Honorable Perry H. Gravely to consider the discharge request. (R. 7). In an Order dated January 9, 2023, Judge Gravely declined to accept the request and recommendation for discharge. (R. 7).

On July 7, 2023, SCDMH issued a second "Request for Discharge Report" and renewed its recommendation, again advising it believed Carter was no longer in need of inpatient treatment. (R. 366). On August 30, 2023, a hearing was held before the Honorable Alex Kinlaw, Jr. to consider the second discharge request. In an Order dated October 31, 2023, the circuit court

declined to accept the request and recommendation and ordered that Carter continue with inpatient treatment. (R. 1).

On November 10, 2023, Carter filed a notice of intent to appeal. On November 13, 2023, SCDMH timely filed a separate notice of intent to appeal. On June 8, 2023, Carter served and filed his Initial Brief of Respondent-Appellant and on June 10, 2023, SCDMH filed its Initial Brief of Appellant-Respondent.

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 denied Respondent-Petitioner and SCDMH's separate requests for rehearing and rehearing *en banc* on May 29, 2026. A timely petition for writ of certiorari was filed on June 26, 2026. This return follows.

STATEMENT OF FACTS

On February 9, 2020, Carter presented to the Prisma Health emergency department (ED) in Greenville with altered mental status after he took "shrooms." He was discharged after his "anxiety" resolved. (R. 340). On July 2, 2020, Carter was brought into the ED by police officers where he presented as agitated, paranoid, and delusional. It was recommended that he be admitted for inpatient psychiatric treatment. (R. 340). On July 3, 2020, Carter was admitted to MIP. (R. 340). On the day of his admission to MIP, Carter demanded to leave and jumped over the nurse's station split door and tried to grab his cell phone. When security approached to escort him out, he barricaded the door to his room and tried to bust out the window to escape. (R. 341).

The following day, on July 4, 2020, Carter walked past the nurse's station at MIP and out of an open door to the patio area (used for patient recreation). He scaled the fence surrounding the area and left the premises. (R. 341). Later, during the nighttime hours, Carter entered the dwelling of his great aunt, Francis Mattison, without consent, retrieved a knife from the kitchen, and stabbed Mattison in the neck, resulting in her death. After the incident, Carter left the scene and did not report his actions to law enforcement or medical staff. (R. 54).

The following day, on July 5, 2020, Carter presented to the ED with complaints of being "lightheaded" and that he had "passed out." After a medical workup, he was returned to MIP; however, on July 8, 2020, Carter again successfully eloped when he forced his body through a glass door and went to his father's house. Law enforcement returned him to the ED and he was sent back to MIP. (R. 341). When Carter returned to MIP on July 9, 2020, he was ordered to be observed with one-to-one staff monitoring due to his high risk for elopement. He was overheard telling a peer that he was going to escape again, and nursing notes record his "poor insight and poor compliance with medications." (R. 341). It was noted that when he would ingest the

prescribed medications, he immediately went to his room to regurgitate them in the toilet. (R. 341). By July 18, 2020, Carter began to interact more with the MIP staff and his peers, and he took his medications as prescribed. He was described as stable and was discharged on July 22, 2020, with a diagnosis of Bipolar I Disorder, with mood congruent psychotic features. (R. 341, 271).

Five days later, on July 27, 2020, Carter again presented to the ED with altered mental status after being pulled over by police for driving erratically and admitting to cannabis use. His symptoms had resolved by July 29, 2020, and he was again discharged home. (R. 342).

On August 28, 2020, following a nearly two-month law enforcement investigation, Carter was arrested for the July 4, 2020, incident and was charged with burglary and the murder of his great aunt. He was subsequently indicted at the August, 2021 term of the grand jury for Greenville County for murder and possession of a weapon during the commission of a violent crime (R. 263), as well as burglary in the first degree (R. 265). After Carter's arrest, during his final six months at the GCDC, between February 2022 and July 2022, Carter refused medications on fifty separate occasions for a total of eighty-seven missed doses of his prescribed medicine. This included Carter refusing Oxcarbazepine[1] a total of forty-six times. (R. 307-334). On June 8, 2022, Carter proceeded to a bench trial and was adjudicated NGRI for voluntary manslaughter, possession of a weapon during a violent crime, and burglary in the first degree. (R. 3-6). On August 16, 2022, when bed space became available, Carter was admitted to the custody of SCDMH.

Bench Trial

When Carter's criminal charges came before Judge Gravely on June 8, 2022, both the State and Carter waived a jury trial pursuant to Rule 14, SCRCrimP, and proceeded with a bench trial. Without objection, the October 4, 2021 Criminal Responsibility and Capacity to

[1] Oxcarbazepine, or Trileptal, is an anticonvulsant often used to stabilize mood. (R. 19-24).

Conform Evaluation was entered into evidence. (R. 3). The State and defense put forth a stipulation of facts along with exhibits and an affidavit from witnesses, pursuant to which Judge Gavely found: "that the facts could have supported a jury finding of the lesser included charge of voluntary manslaughter and possession of a weapon during a violent crime as to indictment 2021-GS-23-5230, and first-degree burglary as to indictment 2021-GS-23-5231. In addition to the evaluation, Judge Gravely heard the testimony of Dr. Stephanie M. Le, a supervising physician for SCDMH and the author of the evaluation. Judge Gravely noted both parties consented to a finding of NGRI and concluded "that at the time of the commission of the alleged offenses, [Carter], as a result of mental disease or defect, did not have the capacity to distinguish moral or legal right from moral or legal wrong." (R. 4). The trial court found Carter NGRI of voluntary manslaughter, possession of a weapon during commission of a violent crime, and burglary, 1st degree, and ordered him committed to a facility designated by SCDMH for a period of hospitalization not to exceed 120 days for examination regarding continued hospitalization and treatment. (R. 4-5). On August 16, 2022, when bed space became available, Carter was admitted to the custody of SCDMH.

First Discharge Hearing

At the December 8, 2022 discharge hearing before Judge Gravely, SCDMH presented testimony from Dr. Alleyne, Carter's attending psychiatrist. The court also considered Briefs/Memoranda submitted by all three parties; the November 4, 2022 Designated Examiner's Report; the October 4, 2021 Evaluation; and arguments presented at the hearing. (R. 8). Based on his review, Judge Gravely found "by clear and convincing evidence that [Carter] is still in need of inpatient treatment and a more adequate transitional plan for release into society and outpatient treatment." (R. 8). Specifically, Judge Gravely found "that SCDMH has not provided sufficient evidence for [Carter] to be released and transferred to outpatient treatment" and that "SCDMH has

not provided an appropriate care plan." (R. 9). The decision was based on a number of factors enumerated in the order, including the short length of Carter's housing at SCDMH, his medical history, his comments to staff at GCDC, his history of failing to comply with taking medication as prescribed while being monitored by jail personnel, and the environment where he would be placed—with his mother, who had failed to properly supervise him in the past and who suffers from her own mental health issues and problems with illegal substances. (R. 10). Ultimately, Judge Gravely declined to accept the recommendation and found as follows:

> The Court finds, upon clear and convincing evidence, that [Carter] lacks sufficient insight or capacity to make reasonable decisions with respect to his treatment and that there is a likelihood of harm to himself of others. Therefore, the Court orders that [Carter] continue with inpatient treatment and be committed to the appropriate facility of SCDMH for further treatment. If SCDMH determines that [Carter] should be released as some point in the future, then a more appropriate treatment plan regarding supervision of [Carter] will need to be provided, including the consideration of transitional housing and a more stable environment with appropriate monitoring and supervision.

(R. 10-11).

Second Discharge Hearing

At the August 30, 2023 discharge hearing before Judge Kinlaw, SCDMH again presented testimony from Dr. Alleyne. Dr. Alleyne testified Carter was diagnosed with schizoaffective disorder, bipolar type, and opined he had been psychiatrically stable since his admission to the State forensic hospital. She explained Carter was being treated with three medications: Abilify (Aripiprazole)—an antipsychotic administered by injection, Trileptal (Oxcarbazepine)—an oral mood stabilizer, and Trazodone—an oral antidepressant with a side effect of sedation to help with sleep. (R. 19-24). Dr. Alleyne said the Abilify injections were administered by a nurse at the hospital, but that Carter was self-administering his other medications. She said he had no recorded refusals or missed doses. Dr. Alleyne explained that in terms of the injectable medicine, SCDMH

or another medical entity could determine whether Carter had taken it or not by "leveling"—doing a blood draw to see how much was in his system at any given time. She said the failure to take the scheduled injection after discharge would be grounds for readmission to the hospital. (R. 24-26).

Dr. Alleyne next explained what it meant for a patient to have "insight" to make responsible decisions with respect to medical treatment. She opined Carter had good insight and believed he would be able to successfully treat himself on an outpatient basis. (R. 26-27). In regard to Carter's likelihood of harming himself or others, Dr. Alleyne said they look at self-reporting, mood, and behavior, that Carter had not exhibited any signs that were concerning to her, and that she thought he would be safe to be discharged under the plan. (R. 27-28). She then discussed the proposed discharge plan itself, including the residence where Carter would be placed, the support system Carter would have from family and friends, and the supervision he would be under from Greater Greenville Mental Health Center, the SCDMH forensic outreach clinic, and the Department of Probation, Parole and Pardon Services, all of which she claimed supported her conclusions. Dr. Alleyne opined the discharge plan was likely to be therapeutic for Carter and that he would not derive any additional benefit from staying in the hospital for further inpatient treatment. (R. 28-33). She concluded by testifying she believed Carter had sufficient insight with which to properly treat himself on an outpatient basis and that there was not a likelihood of serious harm to himself or others. (R. 33).

Upon further examination by Carter, Dr. Alleyne testified Carter was able to demonstrate he can manage his own medication and that he was one of their most responsible and medically compliant patients. She said Carter was also one of the most well-behaved patients, with no

behavioral incidents or demotions, and no physical or violent altercations during his stay at the hospital. (R. 33-35).

Under extensive cross-examination, Dr. Alleyne acknowledged that she had spent only about an hour and a half total with Carter, that his mental disorder still existed, and that it would always exist.[2] She further acknowledged that if Carter missed a dose of Aripiprazole or Trileptal (Oxcarbazepine), his symptoms would start to return. Dr. Alleyne admitted that shortly before his admission to SCDMH, Carter refused or failed to take his prescribed medications on at least 50 separate occasions and he commented to GCDC staff that he understood he would need to comply in order to go home. She testified Carter would remain "psychiatrically stable" if he continued to take his medications but that she could not "guarantee anything" and could certainly not guarantee his stability after discharge if he failed to take any of his medications. (R. 36-41).

Dr. Alleyne next acknowledged that when Carter was discharged from MIP, their staff had opined he was stable enough for discharge; however, five days later he was found by the police driving under suspension, shaking and not making sense, and was in the possession of marijuana. A portion of the MIP discharge records that had already been provided to Judge Kinlaw were made a part of the court's record as a State's Exhibit. (R. 42-45, 271). Dr. Alleyne was then questioned about Carter's proposed discharge plan. She said she was familiar with Judge Gravely's order rejecting discharge following the first hearing, and that his order was consulted as part of coming up with the new discharge plan. She recognized Judge Gravely had a problem with Carter living with his mother due to her own psychiatric symptoms and difficulties with maintaining her own health. She explained this was why the plan was modified—to change the proposed residence

[2] This testimony directly refutes the claim in Carter's brief that: "There was no testimony or evidence to support the circuit court's finding that [Carter] is 'mentally ill.'" (Brief of Respondent-Appellant, p.19).

from Carter's mother to his grandmother, but admitted the two residences were only about fifty feet apart. (R. 45-50).

Dr. Alleyne also admitted Carter would be free to come and go from his grandmother's house as he pleased, twenty-four hours a day, and his grandmother would be under no obligation to report a decline in his condition or any violations. (R. 50-52). Dr. Alleyne further admitted that despite the restriction on Carter possessing weapons, guns, or knives, this would not extend to all knives, and that Carter's grandmother would be permitted to have steak and kitchen knives in the house despite the facts of the index offense. She also admitted that despite the restriction on Carter associating with known felons, this would not extend to his mother even though she is a convicted felon and would be living next door. She claimed this felon restriction was standard and was never intended to apply to family members who were convicted felons, yet SCDMH made no attempt to change this term to specifically note this family-member exception, despite Judge Gravely's prior concerns. (R. 54-57). Finally, Dr. Alleyne acknowledged that despite the restriction on Carter using drugs or alcohol, the proposed residence was located near a neighbor with a history of drug use. She admitted the solicitor would only be notified if Carter was actually returned for hospitalization and not merely for violating the terms of his conditions, and that as a consequence nobody would notify the victim's family of any basic violations either. (R. 57-63, 73-77).

Next, SCDMH called Dr. Frierson to describe the formal violence risk assessment he performed on Carter. Dr. Frierson explained how the assessment was conducted, describing the documents he reviewed, his interviews with Carter, and Carter's diagnosis and medications. Dr. Frierson opined Carter was properly medicated for his illness and said he had been taking all of his prescribed medications for over a year at the hospital. He noted Carter lacked insight when he was previously treated at MIP but in his opinion, that insight was ninety-eight percent better

because Carter now demonstrated a thorough knowledge of his illness, the reasons for the medications, warning signs of decompensation, and the need for lifelong treatment. Dr. Frierson testified Carter was very remorseful and did not want anything like the index offense to happen again. (R. 87-89).

Dr. Frierson next addressed whether he believed Carter was a danger to himself or others. Dr. Frierson specifically noted he considers the patient's "living situation" and whether he or she has "personal support" and an "involved family" when assessing risk. (R. 89-91). Dr. Frierson then explored Carter's history of compliance, coping skills, and lack of violent ideation, as well as how a long-acting injectable would help Carter because "you can't cheat an injection." (R. 92-95). He noted how periodic and unannounced drug screens and placement of Carter on the National Instant Criminal Background Check System (NICS) list would help protect against possible danger, and opined placement at his grandmother's residence would be proper for Carter. Dr. Frierson further opined there was no additional therapeutic benefit to keeping Carter in the hospital and that discharge would be the most therapeutic option. (R. 95-97).

On cross-examination, Dr. Frierson explained he believed Carter had shown remorse for the index offense "through his facial expressions" and his understanding of how it impacted other people in the family; however, he also noted Carter has a particular understanding of "how it changed *his* life" and that it was "something *he* will always have to live with." (R. 100-102) (emphasis added). Dr. Frierson admitted he could not guarantee, with any medical certainty, that Carter would not act out violently in the future. He said he would be most worried if Carter missed a dose of his antipsychotic medication because if he had a return of symptoms, "it is possible he could develop a delusion about another person and engage in violent behavior." He said it was hard to find the perfect solution and that there are no guarantees. (R. 103-107).

The parties submitted briefs, and in a subsequent Order dated October 31, 2023, the circuit court declined to accept the request and recommendation. In the order, Judge Kinlaw stated he had reviewed and considered the briefs and memoranda submitted by the parties, the arguments made at the hearing, the violence risk assessment and other supporting documentation, *Judge Gravely's previous order*, and the testimony of the two experts in reaching his decision. (R. 1) (emphasis added). Ultimately, Judge Kinlaw made the following findings of fact and conclusions of law:

> Based on this review, the Court finds by clear and convincing evidence that [Carter] is still in need of inpatient treatment pursuant to the standard of §44-17-580(A). The Court finds that [Carter] 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 [Carter] continue with inpatient treatment and be committed to the appropriate facility of SCDMH for further treatment.

(R. 1).

STANDARD OF REVIEW

An involuntary civil commitment proceeding where the hearing court is sitting without a jury, pursuant to statute, and whose outcome is dependent upon completion of a hearing and consideration of records, constitutes an action at law. See, e.g., In re Treatment and Care of Luckabaugh, 351 S.C. 122, 130, 568 S.E.2d 338, 342 (2002) ("The record establishes the court below issued its order as a hearing court conducting an action at law, sitting without a jury pursuant to South Carolina Code Ann. § 44-48-100."); See also S.C. Code Ann. § 44-17-580(A) (establishing that, upon completion of a hearing and consideration of the records, a court may order a person to be civilly committed if it finds, upon clear and convincing evidence that the person is mentally ill, needs involuntary treatment, and because of his condition, either lacks the capacity to make responsible decisions regarding his treatment, or is likely to seriously harm himself or others). In an action at law tried without a jury, the appellate court will not disturb the trial court's findings of fact unless there is no evidence to reasonably support them. Nationwide Mut. Fire Ins. Co. v. Walls, 433 S.C. 206, 212, 858 S.E.2d 150, 153 (2021); Renewable Water Res. v. Ins. Reserve Fund, 442 S.C. 272, 278–79, 897 S.E.2d 558, 561 (Ct. App. 2024). Indeed, the appellate court will not disturb the trial court's findings of fact unless those findings are wholly unsupported by the evidence or controlled by an erroneous conception or application of the law. Renewable Water, 442 S.C. at 279, 897 S.E.2d at 561. However, an appellate court may make its own determination on questions of law and need not defer to the trial court's rulings in this regard. Nationwide, 433 S.C. at 212, 858 S.E.2d at 153; Auto-Owners Ins. Co. v. Rhodes, 405 S.C. 584, 593, 748 S.E.2d 781, 785 (2013); Renewable Water, 442 S.C. at 279, 897 S.E.2d at 561.

ARGUMENT

I. The Court of Appeals properly found no error in the circuit court's denial of Respondent-Petitioner's release to outpatient treatment.

Respondent-Petitioner contends the Court of Appeals erred in affirming the circuit court's denial of Carter's release to outpatient treatment. Specifically, that the only evidence of record was the uncontradicted testimony of two qualified expert psychiatrists that continued hospitalization was no longer required. Further, Respondent-Petitioner argues that 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.

The State disagrees on all fronts. The circuit court's findings of fact, explicitly made under a clear and convincing evidence standard, that Carter was mentally ill; needed involuntary treatment; and because of his condition (1) lacked insight or capacity to make responsible decisions regarding treatment, and (2) there was a likelihood of serious harm to himself or others, are supported by evidence in the record and not controlled by an erroneous conception or application of the law. Consequently, those findings of fact should not be disturbed on appeal. The determination "by officials of the State Hospital that the person is no longer in need of hospitalization" is a precursor to the evidentiary hearing and does not control the decision of the court which is statutorily tasked to "hold a hearing to determine whether the person is in need of continued hospitalization pursuant to the standard of Section 44-17-580." S.C. Code Ann. § 17-24-40(C)(2)(c). Further, the circuit court's consideration of "placement concerns" was entirely appropriate in the context of the required statutory determinations of: (1) whether Carter would be in an environment where he would be able to continue making responsible decisions with respect

to his treatment and (2) whether Carter would be in an environment that could create a likelihood of serious harm to himself or others. Finally, the circuit court acted in full compliance with all constitutional, federal, and/or state mandates regarding the preference for treatment in the most medically appropriate integrated environment when it found continued hospitalization was appropriate under a clear and convincing evidentiary standard. For all of these reasons, the circuit court's decision to decline Carter's discharge and continue his hospitalization and inpatient treatment should be affirmed.

Analysis

In South Carolina, when a verdict of NGRI is returned, the trial judge must order the person committed to the South Carolina State Hospital for a period not to exceed one hundred twenty days, and during that time an examination must be made of the person to determine the need of hospitalization of the person pursuant to the standards set forth in Section 44-17-580 of the South Carolin Code. S.C. Code Ann. § 17-24-40(A). Following that examination, a report of the findings must be made to the chief administrative judge of the circuit where the trial was held, the solicitor, the person, and the person's attorney. S.C. Code Ann. § 17-24-40(B). Within fifteen days after receipt of the report, the court must hold a hearing to decide whether the person should be hospitalized pursuant to the standards of Section 44-17-580, and if the judge finds the person is in need of hospitalization, the judge *must* order the person committed to the South Carolina State Hospital. S.C. Code Ann. § 17-24-40(C).

If the person is so committed, and of particular import to this appeal, the Code goes on to provide that:

> 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, the solicitor, the person, and the person's attorney. Within twenty-one days after the receipt

> of this notice, the chief administrative judge, upon notice to all parties, *must hold a hearing to determine whether the person is in need of continued hospitalization pursuant to the standard of Section 44-17-580.* If the finding of the court is that the person is in need of continued hospitalization, the court *must* order his continued confinement. If the court's finding is that the person is not in need of continued hospitalization, it *may* order the person released upon such terms or conditions, if any, as the chief administrative judge considers appropriate *for the safety of the community* and the well-being of the person.

S.C. Code Ann. § 17-24-40(C)(2)(c). Pursuant to this standard, the court *must* order the person's continued confinement:

> If upon completion of the hearing and consideration of the record, the court finds upon clear and convincing evidence that the person is mentally ill, needs involuntary treatment and because of his condition:
>
> (1) lacks sufficient insight or capacity to make responsible decisions with respect to his treatment; or
>
> (2) there is a likelihood of serious harm to himself or others.

S.C. Code Ann. § 44-17-580(A). On the other hand, if the Court finds further hospitalization is *not* required, the Court: "*may* order the person released upon such terms or conditions, if any, as the judge considers appropriate *for the safety of the community* and the well-being of the person." S.C. Code Ann. § 17-24-40(C)(2)(c) (emphasis added). Any terms and conditions imposed must be therapeutic in nature, not punitive, and *must* include, but not be limited to: (1) continue taking medication for an indefinite time and verifying in writing the use of medication; (2) receive periodic examinations and reviews by psychiatric personnel; and (3) report periodically to the probation office for an evaluation of his reaction to his environment and general welfare. S.C. Code Ann. § 17-24-40(D). These terms *may* also include: "provisions for the safety of the

community in general and the victim in particular, including 'no contact' strictures, specific housing requirements, and curfew restrictions." *Interagency Protocol for Defendants Found Not Guilty by Reason of Insanity*, Admin. Order No. 2014-04-24-01 (S.C. Sup. Ct. Order dated April 24, 2014).

Here, Judge Kinlaw found: "by clear and convincing evidence" that [Carter] "is still in need of inpatient treatment pursuant to the standard of § 44-17-580(A)" and "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." (R. 1). Because these findings are supported by ample evidence in the record and not controlled by an erroneous conception or application of the law, they should not be disturbed on appeal.

That evidence was comprised of: (1) the testimony elicited from Dr. Alleyne and Dr. Frierson; (2) the medical records from MIP and GCDC that were reviewed by Dr. Alleyne and Dr. Frierson and used by the State during cross-examination; and (3) the findings in the June 9, 2023 Order issued by Judge Gravely. In sum, it constituted clear and convincing evidence to find both that Carter lacked sufficient insight or capacity to make reasonable decisions with respect to his treatment and that his discharge would pose a likelihood of serious harm to himself or others.

Carter Lacked Insight or Capacity to Make Responsible Decisions with Respect to His Treatment

The evidence showed Carter had a track record of non-compliance with treatment when he was not in the inpatient care and treatment of SCDMH. While under prior inpatient psychiatric care at MIP, Carter successfully eloped on two separate occasions. (R. 302-304). During the first elopement he committed the index offenses. Carter attempted to elope from inpatient care on one additional occasion by breaking a window on July 7, 2020. (R. 306). The fact that Carter tried on three separate occasions, twice successfully, to escape from involuntary commitment indicated

that he was incapable of making responsible decisions regarding his own care and treatment, even when he had been in an inpatient setting.

Carter also exhibited an unwillingness to comply with taking required medications. During inpatient care, nurses noted "his poor insight and poor compliance with medications. It was noted that when he would ingest the medications, he immediately went to his room to regurgitate them in the toilet." (R. 341). During Carter's final six months in GCDC, he refused prescribed medications on fifty separate occasions for a total of eighty-seven missed doses. (R. 307-334). Although he had been moved to "self-administer" his oral medications within the SCDMH hospital, they were still provided to him in the correct dosages at the correct time and monitored by hospital staff. Under the proposed plan, Carter would have administered that medication at home and there would be no responsible party monitoring that they were properly taken. Carter's track record of noncompliance from GCDC was clear evidence that he lacked sufficient insight with respect to his required treatment and demonstrated a high likelihood of noncompliance if daily monitoring by SCDMH medical staff was suddenly removed.

Dr. Alleyne acknowledged evidence admitted at the first hearing revealed that Carter was quite aware that he was being monitored for the purpose of determining the need for ongoing hospitalization. A pattern emerged of Carter refusing medications when he believed his compliance was not related to his immediate release, followed by strict compliance when being evaluated and motivated by the potential to leave a treatment facility. He even advised staff at GCDC: "I'm going to Columbia for four to six months and then I will get out." When encouraged to be compliant he stated: "I will. I want to get out." (R. 335). This behavior provided the circuit court with no reassurance that Carter would continue to comply with taking his medications if he was discharged and expected to fully monitor himself.

Additionally, the evidence showed two instances where Carter was discharged to his family from a treatment facility after which he actually demonstrated a lack of insight and responsible decision making with respect to his own care. Carter was initially discharged to his family from MIP on July 22, 2020. On July 27, 2020, a mere five days later, he was "pulled over by police after being found driving erratically. He admitted to cannabis use." (R. 342). Then, following his arrest for the index offenses on August 28, 2020, the GCDC noted that on "September 4, 2020, he reported his mood was depressed. He admitted to paranoid and racing thoughts. Mid-October 2020, he continued to report auditory hallucinations from God telling him scripture and that he was going to be famous." (R. 342). These incidents displayed an inability to make responsible decisions with respect to his treatment once discharged. In the first instance, Carter had a negative interaction with law enforcement within just five days of discharge. In the second instance, he was actively experiencing symptoms and was not stabilized by the end of the approximately one-month period, following his discharge.

The first instance also indicated an immediate return to illegal drug use upon discharge from inpatient care. As noted in Dr. Alleyne's testimony, drug use, including cannabis, alcohol, or stimulants can have serious negative interactions with Carter's prescribed medications and would be detrimental to his continued treatment. The totality of the evidence supports Judge Kinlaw's findings of fact regarding Carter's lack of sufficient insight.

Carter Posed a Likelihood of Serious Harm to Himself or Others

Carter was found NGRI for two offenses classified as "Violent" and "Most Serious:" Voluntary Manslaughter and Burglary in the 1st Degree. He admitted to those acts in addition to stipulating that a jury would likely have found him guilty of those offenses. The underlying incident was violent with no known motive. As recognized by our U.S. Supreme Court, the finding

of insanity in a criminal trial is sufficiently probative of mental illness and dangerousness to justify confinement. **Jones v. United States**, 463 U.S. 354, 363-64 (1983). Similarly, the violent attack perpetrated by Carter in July of 2020 was strong evidence of risk of serious harm to the community. When that evidence, along with Carter's history of elopement and medical non-compliance was weighed against the predictive opinions presented by SCDMH, the clear and convincing evidence standard was clearly met.

As a matter of common sense and as shown by the evidence, it was reasonable for the circuit court to conclude Carter continued to pose a likely risk of serious harm to himself or others. As noted in Dr. Frierson's Violence Risk Assessment and his testimony, "There is little medical evidence that future violent acts could be successfully predicted by mental health professionals. Therefore, despite opinions contained in this report, there is no guarantee that Mr. Carter will or will not behave in a violent manner in the future." (R. 347-356; 103-107).

Previously admitted medical records were also illustrative of the potential danger Carter poses to himself or other when not properly medicated and monitored. They described his condition as "dangerously unpredictable" during an incident in which he broke a chair and window, requiring five security guards to finally subdue him. (R. 302). Also, in the History and Physical Examination performed when Carter was admitted to MIP, doctors concluded: "Outside the hospital, based on the patient's current state, dangerousness to self or others would be significant due to inability to avoid dangers in the environment." (R. 290). Dr. Alleyne testified the Defendant was currently stabilized, but she could not guarantee he would maintain stability even if he were to comply with the SCDMH proposed plan, not to mention if he were to deviate from it. (R. 41).

As maintaining stability is more likely when one is properly medicated and not using illegal drugs, the likelihood of harm in this case related directly to Carter's inability to make responsible decisions with respect to his treatment and his recreational drug use. "If the Defendant should fail to take his medication, based on his history and evidence presented, the consequences could be severe and could result in violence as shown by his prior killing of his great aunt without any apparent motive." (R. 7).

II. The Court of Appeals did not err in affirming the circuit court's decision when it was both appropriate and wise for the circuit court to consider conditions of release when making its decision on the statutory factors.

Respondent-Petitioner argues the Court of Appeals erred in affirming the circuit court on the basis of the inadequacy of the proposed outpatient treatment plan. Specifically, the conditions of release are irrelevant to the threshold hospitalization inquiry. This argument lacks merit because the circuit court's consideration of "placement concerns" was entirely appropriate in the context of the required statutory determinations of: (1) whether Respondent-Petitioner would be in an environment where he would be able to continue making responsible decisions with respect to his treatment and (2) whether Respondent-Petitioner would be in an environment that could create a likelihood of serious harm to himself or others.

In his Petition for Writ of Certiorari, Respondent-Petitioner complains about this Court referencing the circuit court's "hesitation to release [him] to his grandmother's care" as part of his discharge plan simply because the record contained very little information about her. He argues that his discharge plan cannot be a basis for affirming the circuit court for several reasons. First, Carter contends the proposed conditions of his release were not any basis for the circuit court's order because there was no specific mention of the discharge plan, its effectiveness, or his grandmother by the circuit court, and thus the ruling was instead a "bald ruling" that was "based

on no evidence." (Respondent-Petitioner's Petition for Writ of Certiorari Pg. 7). But this is simply not the case. Judge Kinlaw explained he reviewed and considered the briefs and memoranda submitted by the parties, arguments made at the hearing, the violence risk assessment and supporting documents, and the testimonies of Dr. Alleyne and Dr. Frierson in making his determination. All of this evidence and the related arguments delved heavily into the discharge plan, including the proposed placement with Carter's grandmother; therefore, as properly recognized by this Court, they all informed the circuit court's conclusion that Carter's release to his grandmother created "a likelihood of serious harm to himself or others."

Second, Carter contends that even if the circuit court had justified its ruling based on a deficiency in the discharge plan, "such a basis is impermissible by statute and the United States Constitution." (Respondent-Petitioner's Petition for Writ of Certiorari Pg. 7). He seems to suggest that the circuit court must take a two-part or bifurcated approach, first determining if Carter was in need of continued hospitalization and only after making this decision, then examining the conditions of release and ordering the release conditions it finds appropriate. Carter argues "the second inquiry, necessarily, cannot inform the first." (Respondent-Petitioner's Petition for Writ of Certiorari Pg. 7). The State disagrees.

As recognized by DMH's own experts, the circuit court's consideration of "placement concerns" was entirely appropriate in the context of the required statutory determinations which the court had to make in deciding whether continuing inpatient hospitalization was required. Indeed, the clean, bifurcated separation posited by Carter is neither mandated by the statute nor practical in the context of the decision the court had to make. The circuit court was required to determine whether Carter would be in an environment: (1) where he would be able to continue making responsible decisions with respect to his treatment, and (2) that could create a likelihood

of serious harm to himself or others. Completely removing Carter's proposed "placement" from this determination is impossible. The circuit court must consider the safety of the community where the person will live upon release in regard to dangerousness, which necessarily relates back to the decision to release itself.

This connection was explicitly recognized by the DMH experts on direct examination. In regard to Carter's likelihood of harming himself or others, Dr. Alleyne said they look at self-reporting, mood, and behavior, that Carter had not exhibited any signs that were concerning to her, and that she thought *he would be safe to be discharged under the plan*. (R. p. 27-28). She then discussed the proposed discharge plan itself, including the *residence* where Carter would be placed, *the support system* Carter would have from family and friends, and the *supervision* he would be under from Greater Greenville Mental Health Center, the DMH forensic outreach clinic, and the Department of Probation, Parole and Pardon Services, *all of which she claimed supported her conclusions*. Dr. Alleyne opined the discharge plan was likely to be therapeutic for Carter and that he would not derive any additional benefit from staying in the hospital for further inpatient treatment. (R. p. 28-33).

Similarly, Dr. Frierson addressed whether he believed Carter was a danger to himself or others. He detailed the things he considered, including historical risk factors, clinical factors, and risk management factors. Dr. Frierson specifically noted he considers the patient's *living situation* and whether he or she has *personal support* and an *involved family* when assessing risk. (R. p. 89-91). Thus, it was both appropriate and wise for the circuit court to consider "placement" when making its decision on the statutory factors.

Finally, Carter takes issue with this Court's comment that he was recommended for discharge after "only a short period of compliance," arguing his "exceptional" and

"unprecedented" performance during the 14 months he was treated by DMH render it "unconstitutional to hold him a second longer." (Respondent-Petitioner's Petition for Writ of Certiorari Pg. 9). But pursuant to statute, the release decision is left not to Carter, DMH, or even this Court. "Rather, the statute contemplates that the hearing judge will consider the expert testimony and then exercise independent discretion." (In Re: The State v. Carter, Up. Op. No. 2026-UP-022 (filed January 28, 2026)). That is what happened here. For all of these reasons, the consideration of Carter's discharge and his "placement" by the circuit court was entirely appropriate, as was the Court of Appeals' recognition of that consideration.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and convictions of the lower court be affirmed.

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August 3, 2026