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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Court of Common Pleas
Eugene P. Warr, Jr., Circuit Court Judge

Appellate Case No. 2026-000211
Circuit Court Case No. 2025-CP-10-03621

Joel Ndunda,

Appellant,

v.

Brandi Pfeil, LP-A, Crisis Intervention Employee, individually and officially; Caitlin McGarty, Crisis Intervention Employee, individually and officially; South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health; and Charleston Dorchester Mental Health Center,

Defendants,

Of which Brandi Pfeil, Caitlin McGarty, and Charleston Dorchester Mental Health Center are the Respondents.

**APPELLANT’S REPLY TO RESPONDENTS’ RETURN TO APPELLANT’S MOTION
FOR SUMMARY REVERSAL AND VACATUR OF THE ORDER OF DISMISSAL ON
THE GROUND OF EXTRINSIC FRAUD ON THE TRIBUNAL OR, IN THE
ALTERNATIVE, TO SUPPLEMENT THE RECORD PURSUANT TO RULE 212,
SCACR**

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

Appellant Joel Ndunda, appearing pro se, respectfully replies to Respondents' Return to Appellant's Motion for Summary Reversal and Vacatur, filed August 14, 2026. Respondents' Return does not rebut the showing at the heart of the Subject Motion. Respondents do not address, dispute, or produce the M-130 Affidavit for Emergency Detention certified absent by MUSC's own records custodian. Instead, Respondents introduce, for the first time in this litigation, a different document under a different statute, supported by evidence that is itself contradicted by the independent records of the very institution to which that document was supposedly delivered.

**I. RESPONDENTS DO NOT ADDRESS THE M-130 CERTIFICATION. THEY
SUBSTITUTE A DIFFERENT DOCUMENT UNDER A DIFFERENT STATUTE.**

The Subject Motion rests on a single, certified fact: MUSC's records custodian has certified the complete absence of the M-130 Affidavit for Emergency Detention required under S.C. Code § 44-17-410 for Appellant's May 1–2, 2025 detention. Respondents' Return does not dispute that certification. It does not mention it. Respondents instead invoke an entirely different statute, S.C. Code § 44-17-430, an alternative procedure applicable only where examination under § 44-17-410(2) "cannot be followed," and a different document, a "Part I Order" that CPD refers to as "white papers." Neither § 44-17-430 nor any "Part I Order" nor "white papers" appears anywhere in the four documents in which Respondents' counsel represented to the trial court that Appellant's detention was authorized by a Probate Court Order: not the Motion to Dismiss, not the Memorandum in Support, not oral argument, and not the proposed Order of Dismissal counsel drafted. This theory appears for the first time in this Return, more than a year after the detention and more than four months after Respondents were placed on written notice of the M-130's certified absence.

Respondents also concede the operative fact. Their Return states that the affidavit and order “are (as yet) unable to be located in the present,” that “these documents cannot be located now,” and that Respondents “are not the custodians of the affidavit and order and do not possess them.” The parties therefore agree that neither document can presently be located and that Respondents do not have them. The dispute is not whether the documents are absent; it is what follows from that absence. Respondents answer only that present absence “does not prove that they did not exist then.” That answer would carry weight if the absence rested on a single unsuccessful search. It does not. The absence is established by the certification of the admitting facility’s records custodian, by the lack of any record in the Probate Court that Respondents’ own affiant states issues these orders, and by that same affiant’s statement that CPD does not retain them. Respondents have also never sought additional time to locate the documents, in this Return or in either of the extensions they requested to file it.

II. RESPONDENTS’ OWN NEW EVIDENCE IS CONTRADICTED BY THE INDEPENDENT RECORDS OF THE INSTITUTION IT DESCRIBES.

Respondents’ new theory does not merely fail to rebut the M-130 certification; it is independently contradicted by the certified record. Lieutenant Freshman’s affidavit states that “CPD does not retain copies of Part I Orders of Detention” and that, “consistent with CPD practice, the transporting officer delivers the Part I Order to the reviewing medical facility,” specifically that “Officer Daniels delivered the Part I Order to MUSC following Mr. Ndunda’s transport.” (Ex. 5 ¶ 8.) That is a specific, falsifiable representation: the document was delivered to, and should therefore reside within, MUSC’s records. But MUSC’s own records custodian has already certified, independently and in writing, that no such document exists in Appellant’s records for May 1–2, 2025. Respondents’ own affiant describes a chain of custody terminating at the one

institution whose custodian has certified the document's absence. Respondents' new evidence does not resolve the contradiction the Subject Motion identifies; it deepens it, by placing the missing document exactly where the certified record confirms it is not.

The same problem independently defeats reliance on the underlying order. Under § 44-17-430, a Part I Order can issue only upon the probate judge's own act: "the judge of probate for the county in which the individual is present may issue an order." Any such order would necessarily generate a corresponding record in the Probate Court's own docket. The Charleston County Probate Court has confirmed that no order concerning Appellant exists in its records for the relevant dates. Respondents' Return does not address this second, independent absence. A document that neither the issuing court nor the receiving hospital can locate in its own records is not established by a secondhand affidavit and an illegible photograph.

The statutory scheme makes the Probate Court a mandatory repository under either pathway. Under Section 44-17-410(3), "within forty-eight hours after admission, exclusive of Saturdays, Sundays, and legal holidays, the place of admission shall forward the affidavit and certification to the probate court," which "shall conduct preliminary review of all the evidence to determine if probable cause exists to continue emergency detention of the patient," and which, upon a finding of probable cause, "shall make a written order detailing its findings." Under Section 44-17-430, the alternative Respondents now invoke, the affidavit is presented directly to the probate judge, who issues the custody order, and if a physician executes the certification, "proceedings must be held pursuant to Section 44-17-410(3)." Under either route, the Probate Court necessarily receives the initiating affidavit and generates a written order of its own. A certified copy from that court would therefore be conclusive of the question now before this Court. Respondents have not produced one.

The manner in which Respondents chose to substantiate the order is itself telling. If a probate judge issued a Part I Order authorizing Appellant's detention, the most direct and authoritative proof of that fact was a certified copy from the Probate Court's own file. That proof would have been legible, signed, dated, and identifiable by case number, and obtaining it would have required a single records request to the court that issued it. Respondents did not produce such a copy. They instead offered a photograph of a paper held up to a body camera, captured eleven months after the intervention, reduced to a screenshot, and authenticated by an officer who was not present. Respondents represented to the trial court across four documents that the order existed and was "undisputed." Having made that representation, it was theirs to substantiate in the ordinary way. The absence of a certified copy from the issuing court, and the substitution of a degraded image obtained by indirect means nearly a year later, is a circumstance Respondents have not explained.

The shift in Respondents' own position is itself evidence of the deliberate scheme the Subject Motion identifies. For over a year, across four documents, Respondents' counsel represented to the trial court, without qualification, that a Probate Court Order existed and was "undisputed." Not once in that year did counsel disclose that Respondents themselves never possessed the document, or that its custody supposedly passed from CPD to MUSC. That custodial account appears for the first time in this Return, only after Appellant placed the certified absence on the record and moved for summary reversal. A party that had known all along it never possessed the order would not have represented its existence as undisputed without qualification; it would have said so from the outset. The unqualified representation sustained for over a year, followed by a custodial explanation offered only under the pressure of the Subject Motion, followed by the document's confirmed absence from all three institutions Respondents' own account places it with,

is precisely the kind of conscious wrongdoing Chewning requires to establish extrinsic fraud. 354 S.C. at 84, 579 S.E.2d at 611.

**III. RESPONDENTS HAVE NOT PRODUCED THE BODY CAMERA FOOTAGE
THEY RELY UPON, AND THEIR OWN CITED EXHIBITS CONTRADICT THEIR
ACCOUNT.**

Lieutenant Freshman states that she personally reviewed body camera footage from the May 1, 2025 intervention and that the footage depicts a document being handed to Officer Daniels. (Ex. 5 ¶¶ 6–7.) Respondents’ own Exhibit 6 confirms that both Officer Daniels’s body camera and the rear seat camera of vehicle 307 recorded the interaction and that the footage was uploaded. (Ex. 6.) It was Respondents’ burden, having chosen to rely on that footage, to produce it, or a legible export of it, in support of their Return. They have not. They have produced a single, illegible still image extracted from it, authenticated by a witness who was not present for the events it depicts. Charleston Police Department’s published body-worn camera policy provides that recordings that are non-investigative and non-arrest are retained for fourteen days absent a supervisor’s flag for extended retention, with the reason for any such flag noted in the recording’s metadata. Appellant did not file this action until June 24, 2025, fifty-four days after the intervention, and well after the ordinary fourteen-day retention period, which expired on or about May 15, 2025, had already run. No filing existed at that time that could have prompted preservation of this footage in connection with this case. Whether and why this footage survived beyond the department’s ordinary retention schedule, and what its metadata shows about any extended-retention flag, are questions Respondents’ own affiant does not answer and Respondents’ Return does not address. Having elected to rely on a single frame from a recording they have not produced in full or authenticated, Respondents bear the consequence of that choice. It is for this Court, not

Appellant, to determine what weight, if any, an unauthenticated still image of unexplained provenance should be given, and whether Respondents wish to attempt to cure that deficiency.

Rule 106, SCRE, provides that “[w]hen a writing, or recorded statement, or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.” That principle applies with particular force here. The same footage Lieutenant Freshman reviewed to extract a single frame would necessarily also have captured the remainder of the May 1, 2025 intervention, including the events Appellant’s parents describe under oath: the basis, or absence of one, for marking every item of the Suicide Severity Rating Scale “Yes”; what Appellant actually said; and the parking-policy representation Respondents later admitted was false. Respondents have extracted the one frame that supports their new theory while withholding the remainder of the same recording that ought in fairness to be considered with it, and that bears directly on the truth of the danger designation underlying Appellant’s claims.

Exhibit 6 reflects the same selectivity. Respondents submitted the CPD Field Contact report with “yellow highlighting added” to the words “white papers were signed.” The same report records what Respondent Pfeil told the responding officer on May 1, 2025: that Appellant “was having an episode of psychosis.” Respondents’ own Exhibits 3 and 4 describe a different contemporaneous record. Both affiants refute and state that the written Mobile Crisis report marked every item of the Suicide Severity Rating Scale “Yes” and described Appellant as homicidal, while that same report recorded that the situation was not an emergency and that no incarceration occurred. (Ex. 3 ¶¶ 10, 12; Ex. 4 ¶¶ 7, 16.) Respondents have highlighted the portion of Exhibit 6 that supports their new theory. The unhighlighted portion of the same exhibit records

a statement by a Respondent to law enforcement that does not match the clinical record Respondents themselves generated.

Respondents' Background section relies on the affidavits of Appellant's mother and father, Exhibits 3 and 4, to establish the undisputed sequence of events on May 1, 2025. Having relied on those affidavits for that purpose, Respondents do not address what those same sworn statements say about the events they otherwise dispute. Both parents, present throughout the intervention, swear that Appellant was "calm, cooperative, and answered all questions," that his only remark resembling the SSRS characterization was a joking comment, "who hasn't thought about revenge," and that the written report marking every suicide-risk item "Yes" and describing him as homicidal was false. (Ex. 3 ¶¶ 6, 12; Ex. 4 ¶ 7.) Both parents further swear that no member of the crisis team provided Appellant or the family with any written information, and that when they asked to review the report, they were told it "could not be shared with us" and was "only for their records." (Ex. 4 ¶ 10.) Neither affidavit describes any authorizing document being shown, referenced, or mentioned at any point during an intervention both affiants witnessed in full. These are sworn statements from witnesses who were physically present for the entire intervention. Lieutenant Freshman was not. Respondents cannot rely on Exhibits 3 and 4 to establish the sequence of events while disregarding what those same witnesses, under oath, say about the fabricated danger designation and the withholding of the written record from the persons present.

IV. THE EXHIBITS DO NOT ESTABLISH WHAT RESPONDENTS OFFER THEM TO PROVE.

Lieutenant Freshman was not present at the May 1, 2025 intervention and states that she was "not personally involved" in it. (Ex. 5 ¶ 6.) Her affidavit is a reconstruction, sworn on August 12, 2026, from a review of body camera footage she was prompted to examine after Ms. Kristin

Raines, a BHDD employee whom Lieutenant Freshman describes as “embedded within my Division at CPD,” made her “aware that the Plaintiff in a lawsuit against BHDD” had alleged in his filings that the order never existed. (Ex. 5 ¶¶ 2–3.) By her own account, she provided the resulting screenshot to BHDD “on or about April 14, 2026” (Ex. 5 ¶ 7), four days after Appellant placed the MUSC certification on the record. Respondents held that material for four months. Lieutenant Freshman’s affidavit was not sworn until August 12, 2026, two days before Respondents filed this Return.

The screenshot offered as Exhibit A is not legible. It does not permit verification that the document depicted names Appellant, bears a probate judge’s signature, carries a case number, or was issued on any particular date. More fundamentally, Respondents have not authenticated the image by any of the ordinary means. Video and photographic evidence is customarily authenticated either through a witness with personal knowledge who can attest that the recording fairly and accurately depicts what that witness observed, or through evidence describing the recording system and the process by which the image was produced and preserved. Respondents offer neither. The officer who wore the camera and was present at the intervention, Officer Cody Daniels, has submitted no affidavit. Lieutenant Freshman, who did submit one, states that she was not present. (Ex. 5 ¶ 6.) No affiant describes how the still image was extracted from the recording, how the recording was stored, who had access to it, or what steps preserved its integrity between May 1, 2025 and its appearance in this Return. Nor does the image itself supply what the affidavits omit. It bears no date-and-time overlay of the kind body camera systems ordinarily embed in the recorded frame. What it shows instead is a phone screenshot of a phone screenshot viewer, itself displaying an image opened through a web-based electronic mail interface, several steps removed from any evidentiary export. Nothing on the face of the exhibit ties the underlying photograph to

May 1, 2025, to any body camera, or to any particular case. An unreadable photograph of an unidentified paper, offered without a percipient witness, without any account of the process that produced it, and without any documented chain of custody, does not constitute production of the document the Subject Motion requests.

Respondents also describe Exhibits 5 and 6 as “documentary proof (from an independent source, the CPD).” Their own affidavit describes something different. Lieutenant Freshman learned of this litigation because Ms. Kristin Raines, an employee of Respondent Department “embedded within my Division at CPD,” made her aware of Appellant’s filings. (Ex. 5 ¶¶ 2–3.) Lieutenant Freshman then reviewed the footage, extracted the image, and provided that image to BHDD. (Ex. 5 ¶ 7.) On Respondents’ own account, then, the process that produced Exhibits 5 and 6 was initiated by Respondents’ own employee and concluded by delivery of the resulting material back to Respondents. That sequence does not describe an independent source generating evidence of its own accord. Whatever weight this Court gives these exhibits, Respondents’ characterization of them as independently sourced is not supported by the affidavit they filed to support it.

The affidavit is also silent as to the authority under which the recording was accessed and the image extracted. Body-worn camera data is not a public record and is not obtainable through the Freedom of Information Act; the persons entitled to request and receive it, and the routes by which they may do so, are prescribed by statute. S.C. Code Ann. § 23-1-240(G). Lieutenant Freshman states that she reviewed the footage “in my official capacity,” but her affidavit does not identify the authority for a review undertaken at the prompting of a party’s employee in pending civil litigation, does not state on what basis a recording of an eleven-month-old, non-arrest encounter remained available for review, and does not describe the process by which the image was extracted from it or the record, if any, that process generated. Respondents ask this Court to

accept the conclusion Lieutenant Freshman drew from that review while supplying none of the documentation that would permit the review itself to be examined.

V. RESPONDENTS HAVE NOT SATISFIED THE RULE 212 REQUEST, AND THEIR OWN THEORY LEAVES THE DETENTION UNAUTHORIZED EVEN IF CREDITED.

The Subject Motion requested, in the alternative, that Respondents produce the M-130 and the Probate Court Order of Detention or certify their non-existence. Respondents have done neither. They have not produced the M-130. They have not produced the order itself. They have offered an illegible photograph of a different document under a different statute, authenticated by a non-witness, in place of the production the Rule 212 request sought.

Even accepting Respondents' new theory on its own terms, it does not establish a lawful detention. A Part I Order under § 44-17-430 serves one function: it authorizes temporary custody so that the person "must be examined by at least one licensed physician as provided for in Section 44-17-410(2)" within twenty-four hours. If the physician does not execute that certification, "the proceedings must be terminated and the individual in custody must be released immediately." The custody order is not itself a commitment; it is the vehicle for obtaining the physician certification that the statute makes the condition of any lawful detention. Appellant's own MUSC evaluation record, already before this Court, is unsigned, contains no completed diagnosis, and reflects no physician certification. On Respondents' own theory, then, the statutory process was never completed: the examination and certification that § 44-17-430 exists to produce never occurred, and no lawful commitment ever came into existence. That is not a rebuttal of the Subject Motion. It is its premise, restated under a different statute.

**VI. RESPONDENTS' PROCEDURAL ARGUMENT DOES NOT REACH A MOTION
BASED ON FRAUD ON THE TRIBUNAL.**

Respondents argue that summary reversal is unavailable under the Appellate Court Rules and that the proper vehicle for relief from fraud, misrepresentation, or misconduct is a Rule 60(b)(3), SCRCR, motion in the circuit court. That argument does not reach the ground on which the Subject Motion rests. Courts possess inherent authority, independent of Rule 60(b), to vacate judgments procured by fraud upon the tribunal, exercisable at any stage of the proceedings, including by an appellate court directly. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 245–46 (1944); *Chewning v. Ford Motor Co.*, 354 S.C. 72, 80, 579 S.E.2d 605, 609 (2003). *McCall v. IKON*, on which Respondents rely, addresses the ordinary presumption of correctness afforded a judgment on appeal; it does not address, and does not limit, a court’s inherent authority to vacate a judgment shown to have been procured by fraud on the tribunal itself. Respondents’ categorical denial of the Subject Motion’s factual premise does not convert a fraud-on-the-tribunal motion into an ordinary Rule 60(b)(3) proceeding.

Respondents also mischaracterize the relief sought. They describe the Subject Motion as “Plaintiff’s attempt to lessen his burden and short circuit” the ordinary appellate procedure. The Subject Motion does neither. It asserts that the judgment was procured by a representation the certified record contradicts, and it requests, in the alternative, production of the documents that would resolve the question. Neither request relieves Appellant of any burden. The alternative request would increase what Appellant must confront, because production of a valid Order of Detention would resolve against him the factual question that request poses. A party seeking to avoid a burden does not ask for the document that would defeat the premise of his own motion. Respondents’ Return devotes its argument to the vehicle Appellant selected and to the proposition that present absence does not establish past non-existence. It nowhere explains why a document

Respondents represented as existing, and as undisputed, across four filings is not in the record of this appeal.

Respondents' new account also compounds a failure that preceded this appeal. As a person subject to a commitment proceeding, Appellant had complete access to his records relevant to that commitment. S.C. Code Ann. § 44-22-110(A). Appellant requested his records from Respondents. Respondents' production included neither the affidavit their own affiant states BHDD clinicians execute to initiate the Section 44-17-430 process, nor any order. Section 44-22-110(B) permits withholding only upon a written physician determination that specific information would be detrimental to treatment, placed in the record. No such determination exists, and Respondents have never asserted one. Silent non-production was therefore not a lawful refusal.

Appellant separately requested his records from MUSC, a different institution. MUSC produced records of the May 1–2, 2025 visit bearing no signature and no completed evaluation, and MUSC's records custodian subsequently certified that no M-130 Affidavit exists in Appellant's records. Respondents' new theory divides the process between these two institutions: Respondents' own clinicians obtain the Part I order from the Probate Court and deliver it to the transporting officer, and MUSC conducts the Part II examination and executes the certification. Neither institution's records contain what that theory requires. Respondents produced no affidavit and no order. MUSC certified the absence of the M-130 and produced an unsigned evaluation reflecting no physician certification. Respondents' account therefore directs this Court to an institution whose custodian has certified the document's absence, while Respondents themselves produced nothing the statute required them to produce.

The presumption Respondents invoke also assumes the very fact in dispute. A presumption of correctness presupposes a judgment regularly obtained. The judgment here was obtained on the

strength of a represented fact, that a Probate Court Order authorized Appellant's detention, which Respondents have never substantiated and which the certified records of the admitting facility contradict. Respondents therefore ask this Court to presume the regularity of a judgment in order to defeat a motion asserting that the judgment was procured irregularly. That reasoning assumes its own conclusion. The point is sharpened by the origin of the order itself: the Order of Dismissal was drafted by Respondents' counsel and adopted by the trial court. The presumption Respondents ask this Court to apply thus attaches to a document they authored, reciting an authorization they represented, which they have still not produced. A party may not invoke the regularity of a judgment as a shield against a motion asserting that the judgment was procured irregularly, while declining to produce the single document that would establish its regularity.

The same is true of Respondents' insistence on procedural form. Respondents direct Appellant to Rule 60(b)(3), SCRCP, and to the requirement of leave, while themselves attaching new evidentiary material to a Return without the motion Rule 212(b), SCACR, requires, and while producing neither the M-130 Affidavit, nor the affidavit their own affiant states BHDD clinicians execute to initiate the Section 44-17-430 process, nor a certified copy of the order from the court their own affiant states approved it. Respondents ask this Court to hold a pro se appellant to exacting procedural standards while supplying neither the procedure nor the proof on their own side of the record.

**VII. RESPONDENTS HAVE NOT COMPLIED WITH RULE 212(b), SCACR, AND
HAVE DENIED APPELLANT THE PROCEDURE THE RULE REQUIRES.**

Rule 212(b), SCACR, provides that, absent the written consent of all parties, "a party desiring to supplement the Record on Appeal must move the appellate court for leave to do so," and that "in response to that motion, the other party(s) shall designate any supplemental materials

which that party desires to add if the Court grants the motion.” Respondents have not filed any such motion. They have instead attached Exhibits 5 and 6, new evidentiary material not before the trial court, directly to their Return opposing Appellant’s motion, without seeking this Court’s leave. Respondents’ Return acknowledges the supplementation question by stating that they “do not object” to the exhibits’ inclusion in the record, but Rule 212(b) does not permit a party to supplement the record by attaching new exhibits to its own opposition and inviting non-objection; it requires a motion, to which the opposing party then has the right to respond by designating its own supplemental materials. By bypassing that procedure, Respondents have denied Appellant the structured opportunity Rule 212(b) itself guarantees. Respondents’ simultaneous argument that Appellant’s properly noticed Rule 212 request is procedurally improper, while Respondents introduce their own new evidence without any motion at all, is difficult to reconcile.

**VIII. WHETHER TO CONSIDER EXHIBITS 5 AND 6 IS A MATTER FOR THIS
COURT’S DISCRETION; IF CONSIDERED, THE RECORD SHOULD REFLECT
WHAT THEY ACTUALLY SHOW.**

As set out above, Respondents did not move for leave to supplement the record under Rule 212(b) before attaching Exhibits 5 and 6 to their Return. Whether this Court considers those exhibits despite that procedural failure is a matter for the Court’s discretion, not a question Appellant need resolve by consent. Appellant takes no position on whether the Court should excuse Respondents’ failure to move under Rule 212(b). Appellant asks only that, if the Court does consider Exhibits 5 and 6, it weigh them for what they are: a secondhand affidavit from a witness with no personal knowledge of the events, describing a screenshot created in April 2026 and then held for four months after Respondents were placed on notice of the M-130’s certified absence, describing a document that Respondents’ own affiant says was delivered to an institution whose

custodian has certified it is not there, supported by a photograph too illegible to verify. That is not evidence that resolves the Subject Motion. It is a second, independently documented instance of the pattern the Subject Motion already identifies: a representation about an authorizing document, unaccompanied by the document itself, that does not survive comparison to the certified records of the institutions the representation depends upon.

Respondents' own affiant further establishes that Respondents are not strangers to the document they say they cannot produce. Lieutenant Freshman states that "[a] Part I Order of Detention is provided by the BHDD clinicians after they have received approval from the Probate Court to detain the individual for further evaluation at the hospital." (Ex. 5 ¶ 5.) On that account, it is Respondents' own clinicians who seek the Probate Court's approval, receive it, and deliver the resulting order to the transporting officer. Section 44-17-430 likewise places the initiating step with the petitioner, who "must execute an affidavit" and present it to the probate judge. Respondents are therefore the originating party in the very process they describe, and the party whose ordinary institutional function requires recourse to the Probate Court in commitment matters. Yet Respondents have produced neither the affidavit their own clinicians would have executed to initiate that process, nor a certified copy of the order from the court they say approved it. They obtained instead, through a separate agency, a photograph captured eleven months after the fact, offered without a percipient witness, without process testimony, and without a chain of custody. Respondents' assertion that they "are not the custodians of the documents at issue" is difficult to reconcile with their own affiant's description of BHDD clinicians as the parties who obtain those documents and hand them to the officer.

CONCLUSION

Respondents' Return leaves the central premise of the Subject Motion untouched: the M-130 Affidavit remains certified absent, and Respondents do not dispute it. In its place, Respondents offer a new document under a new statute, disclosed for the first time more than a year after the detention, supported by a non-witness's reconstruction and an illegible photograph, that is itself contradicted by the independent records of both the Probate Court that would have issued it and the hospital to which Respondents' own affiant says it was delivered. Appellant respectfully renews the relief requested in the Subject Motion: summary reversal and vacatur of the Order of Dismissal or, in the alternative, an order directing Respondents to produce the M-130 Affidavit and the Probate Court Order of Detention or certify their non-existence, together with the complete body camera and cruiser-camera footage of the May 1, 2025 intervention referenced in Respondents' own exhibit.

Respectfully submitted,

s/ Joel Ndunda

Joel Ndunda

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Date: August 17, 2026

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below, a true and correct copy of the foregoing Appellant's Reply to Respondents' Return to Appellant's Motion for Summary Reversal and Vacatur was served upon counsel for Respondents by first-class United States Mail, postage prepaid, addressed to:

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s/ Joel Ndunda

Joel Ndunda, Pro Se Appellant