

**THE STATE OF SOUTH CAROLINA
In The Court Of Appeals**

**APPEAL FROM ANDERSON COUNTY
Court Of Common Pleas, 04th Judicial Circuit**

J.C. Nicholson, Circuit Court Judge

Case No: 2013-000879

**IN THE MATTER OF THE CARE AND TREATMENT OF
WILLIAM DEANS
Appellant.**

RECEIVED

MAY 19 2014

SC Court of Appeals

**APPELLANT MOTION TO DENY GRANTING RESPONDENTS MOTION TO STRIKE
DATED MAY 1, 2014, and Notice of Motion**

To: Respondent take Notice of this the following Motion Appellant will move for the requested relief within ten plus four days of service for the requested relief.

Appellant moves this Court pursuant to SCACR Rule 208(b) and Rule 224(a)(b) to strike matter from the record on appeal entitled (Respondents) MOTION TO STRIKE dated May 1, 2014 for "failure to state facts sufficient to constitute a cause of action".

On May 7, 2014 Appellant received Notification from the Court that Appellant had until May 15, 2014 in which to make a reply to Respondents "Motion To Strike, signed Deborah R.J. Shupe, Assistant SC Attorney General, requesting that portions of Appellants Amended Initial Brief and designated matter be stricken.

Appellant moves this Court to deny granting Respondents Motion To Strike, for it is Respondents Motion is frivolous and meant to cause undue delay, while auguring against it's own experts and documented evidence showing Appellant is entitled to be released from civil commitment.

see Respondents Motion To Strike.

1. Appellant would show with Memorandum in Support, it is the Respondent who is attempting to re-litigate in its efforts to keep from this Court Appellants properly reserved issues exposing the Respondents continued with holding of exculpatory evidence and being still twice in contempt of court, which has denied Appellant a fair SCC 44-48-10 Status of Case and Annual Review Hearing.

a) The Respondents Motion To Strike is untimely and is with out leave of court to not have served and filed a SCACR, Rule 208 (a)(2)"Initial Reply Brief" of the Respondent.

b) is attempting to cover up the fact the Respondent is twice in contempt of Court being,

(1) the Respondent confiscating the court ordered recording of SCC Ann. 44-48-110 Annual Review Examination from Appellant

(2) and in violation of court order not to interrogate Appellant any further about out of State dismissed charge and uncharged allegations, which is still going on even as of this writing.

c) that all the Respondent listed issues subject of its strike are in fact properly reserved for Appellate review.

d) that the State is with out subject matter and over the person jurisdiction, as being a un-adjudicatd issue.

Incorporated herein as if fully re-written in support of APPELLANT MOTION TO DENY GRANTING RSEPONDENTS MOTION TO STRIKE is Appellant Memorandum In Support and Motion For Entry Of Default Against the Respondent and Appellants SCACR Rule 217 Motion To Argue Against Precedence.

Wherefore, Appellant moves this Court as follows,

1. Strike Respondents Motion To Strike.

2. Find Respondent in Default for not having leave of Court to not serve and file "Initial Reply Brief Of Respondent".

Respectfully Submitted by,

May 12, 2014

William Deans

**William Deans
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, C 29203**

**THE STATE OF SOUTH CAROLINA
In The Court Of Appeals**

**APPEAL FROM ANDERSON COUNTY
Court Of Common Pleas, 04th Judicial Circuit**

J.C. Nicholson, Circuit Court Judge

Case No: 2013-000879

**IN THE MATTER OF THE CARE AND TREATMENT OF
WILLIAM DEANS
Appellant.**

**APPELLANTS MEMORANDUM IN SUPPORT OF APPELLANT MOTION TO DENY
GRANTING RESPONDENTS MOTION TO
STRIKE DATED MAY 1, 2014,**

Appellants asserts the Respondents Motion To Strike is un-timely and is meant to cause undue disruption and delay of appeal by attempting to hide misconduct of its representatives and re-write South Carolina Legislatures intent for the purpose of a SCC Ann. 44-48-10/170 at 110 Annual Review Hearing to ascertain the status as to whether Appellant as so changed to be released from civil commitment.

1. On Feb. 4, 2014 Appellant filed timely Amended Initial Brief of Appellant and Designation of Matter.

a) On March 6, 2014 Respondent filed for an Extension of Time. specifically requesting an extension to file/serve "Initial Brief of the Respondent and Designation of Matter. see hereto Appellants Exhibit (AA)

b) On March 7, 2014 the South Carolina Court Of Appeals granted an Order based upon the foregoing reason given in the Respondents request for an extension of time (due) April 7, 2014

see hereto Appellants Exhibit (BB)

c) Dated April 7, 2014, Respondent filed, **RESPONDENT'S MOTION FOR SECOND EXTENSION OF TIME WITHIN WHICH TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER.** see hereto Appellants Exhibit (CC) Specifically see Appellants Exhibit (CC) at page 1 subsection (3.) Respondents testifies

"In addition to the above, counsel worked on the Initial Brief and Designation in this matter but as not able to complete it prior to the due date. The undersigned assures the Court completion of this brief is a high priority, and she will work diligently to complete it in a timely manner".

Appellant made a reply not objecting for the specific reasons given by the Respondent for a Second Extension of Time.

d) On April 17, 2014, the Court granting a second extension of time to serve and file specifically, the initial brief of respondent and designation of matter (extended until May 7, 2014.

see hereto Appellants Exhibit (DD)

The Court granted two extensions of time based only on the Respondent sworn assertion it would be filing a belated Initial Brief Of The Respondent and Designated Matter.

The Respondent did not file it's belated Initial Brief Of The Respondent in the given time frame and as such the Respondent waived any such arguments as asserted in it's Motion To Strike.

As such the Respondent is in violation of the controlling Adjective Law, SCACR, Rule 224 (a) and Rule 208 (a)(2) and the Supreme Court of South Carolina order of March 18, 2009, (www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=200903-18-01).

2. See Respondent Motion To Strike, page 2 at subsection 4.

Respondent is claiming res adjudicator against Appellant when in fact it is the Respondent the lower court ruled against based upon the very same issues the Respondent is attempting to expunge.

This is understood as (for one) the lower Court ordered an injunction, enjoining the Respondent from any further interrogations and demands that Appellant admit guilt and plead guilty to out of State dismissed charges and baseless allegations.

2. See Respondent Motion To Strike, page 2 at subsection 4. (un-numbered by reference)

at Statement of Case, pp 1-9 (except specific reference to 2013 hearing transcript)

a) Argument: Appellants Initial Brief page 1-9 gives a basic history of the case and relevant issues, being for (one) there has never been a direct ruling on Appellant assertion the Court/State never had subject matter nor jurisdiction over this person. And, (two) at Statements of Case page 5-6, Appellant argued the State has since July 2004 refused to provide SVP treatment as ordered / instead holding Appellant civilly committed form interrogational purposes only as shown in the indisputable documented evidence and testimony by reference Appellants Designated Matter No: 12,

SCDMH General Counsel Attorney Carter admits that further civil commitment of Appellant is a moot issue if the Court did not with draw its injunction stopping the interrogation of Appellant.

This is also refereed to by the Respondent at Motion To Strike, page 2 at subsection 5. see Nos. 12-13.

The lower court denied the SCDMH Attorney Carter's motion to with-draw the injunction, which in turn it could be understood why the Respondent is attempting to hide it's malfeasance committed against the Appellant.

It is relevant, / it is part of the record, and is an important factor to consider on Appellants other issues on appeal.

See SCREvid, Rule 401

b) See Respondent's Motion To Strike, page 2 at subsection 4. Issue 1 in it's entirety (pp 10-13).

Argument: Subject Matter Jurisdiction, Initial Amended Appeal Brief Of Appeal at 10-13.

Appellant raised this matter up for the first time in his reply to the appellant counsel Anders (Johnson Brief). Appeal case no. 2002-CP-40-3343

In 2007, this court did not mention or reference Appellants reply to the Anders Brief in the Courts final order dismissing the case,

Appellant filed a Rule 59 for re-hearing and again this Court refused to issue a Rule 52(a) decision.

Appellant then filed Certiorari to the Supreme Court which in turn Certiorari was denied.

Appellant is with the reasonable belief since the Courts have refused to make a SCACR Rule 52 [a] decision / is un-published and is not authority.

Should this Court consider the matter is res-judicator / in the alternative, See hereto, as if fully re-written is Appellants SCACR, Rule 217 Motion To Argue Against Precedents.

c) See Respondents Motion To Strike at page 2 at Issue 3. p 16-18.

Issue No: 3 addresses two separate matters, by reference see Initial Amended Brief of Appellant at page 16, [3](a),

Appellants Record On Appeal Appellants Exhibits (D-1) D-2), (D-3), are exhibits presented and referenced by the lower Court showing pursuant to SCC Ann. 44-48-110 the progress of Appellant through the SVP treatment Program according to past examiners, ie: witnesses for the Respondents,

(State Experts) testifying that Appellant is at an extremely low risk of re-offending.

example: Appellant is rated at a -2 by the 2012 Dr. Domino Annual Review Examination of Appellant out of a scale of 1-10 being 10 is the most dangerous.

It now takes a minimum of a 4 to be considered for civil commitment. ie: SCC Ann. 44-48-10/90.

At Appellants Exhibits E-1 E-2

specifically, E-2 the Respondent is asking this Court to strike Appellant from referencing the Respondents own State expert.

see Respondents Motion To Strike at page 2 at 5. Respondent references Appellants Designation Of Matter Nos. 7. ie: Dr. Domino 2012 SCC Ann. 44-48-110 Annual Review Examination.

note: there is no 2013 Annual Review Examination preformed. The February 2013 hearing / subject of this appeal.

Appellant does not argue against striking this Exhibit.

As shown by Appellant in Amended Brief On Appeal at page 17 at 3.

Dr. Domino references prior SCC Ann. 44-48-110 Annual Review Examinations. which in turn Appellant listed as Designated Matter.

Number one, should this Court strike the Dr. Domino 12/18/12 Examination from the record / This in turn would show the Respondent presented no witness nor evidence to continue civil commitment of Appellant.

Number two, see Initial Amended Brief Of Appellant p17 at subsection (3.) Appellant addressed the fact the lower court denied entry of the 2012 SCC Ann. 44-48-110 Annual Review Examination of Dr. Domino, for Dr. Domino in part based her opinion on a 2004 evaluation that was court ordered sealed in 2004 pursuant to SCC Ann. 44-48-1 .

And, see see Initial Amended Brief of Appellant at pages 17-18, Appellant raised to the lower Court that Dr. Domino was complicit in having a court ordered recording of the Dr. Domino examination confiscated from Appellant, to which the Appellant was not able to present the recording as rebuttable evidence for the defense at the SCC Ann.44-48-110 Annual Review Hearing, subject of this appeal.

d) see Respondents Motion To Strike at page 2, Issue 4. p. 19

Appellant again presented documented evidence (Appellants Exhibits G 1-2), which the lower Court entered as supporting Respondents representative Attorney Carter testifying that the only reason Appellant is civilly committed is for interrogation purposes, ie: Appellants Designation of Matter Nos. 12-13.

Respondent failed to serve and file a Objection to the lower Court for entry of this evidence nor has the Respondent filed a cross appeal against the lower Courts ruling, as such this issue is res adjudicator to the Respondent.

e) see Respondents Motion To Strike at page 2, Issue 5 & 6, refer3nces Initial Amended Brief of Appellant at p. 23 1st paragraph / Conclusion, subsections 1,3(2nd sentence) beginning with 3),8 (1,2 & 4).

The Respondent is claiming res- judicator on all these referenced issues.

No where in the record does Appellant try to get a different ruling on the original order of commitment, ie: Appellants Exhibit J.

The 2004 civil commitment court referenced three allegations against Appellant in the States Petition For Civil Commitment.

[Keeping in mind the purpose of a SCC Ann. 44-48-110 Status and Annual Review Hearing is to determine as to whether Appellant has so changed to be released at large].

At Tr and in Appellants Rule 59 motion for rehearing of denial of relief.

Appellant referenced the Courts documents (Order Of Civil Commitment 2004 and the States Petition for Civil Commitment of Appellant.

This was starting point to show where in treatment Appellant was on 2/1³/2013 compared to 2004 as diagnosed by the Respondents experts.

Specifically Appellant argued and two major issues of three issues on the States Petition has changed since 2004.

(i) see States Petition, by reference Initial Amended Brief of Appellant page 21, at Note: section (#2.) and page 22 at section #3.

(at #2.) that in the commission of sexual offense [respondent] committed cunnilingus penetration fallacio...upon a minor child.

(at #3.) that [respondent] committed sexual offenses against another child.

As stated herein Appellant had Request For Discovery and Motioned for a Eviduary Hearing be scheduled / held prior to the 2/ 2013 Annual Review hearing.

Both request for discovery and motion for evidentiary hearing was denied by the lower Court. In turn thses two issues are properly reserved and raised on appeal.

These are two key issues which show Appellant has so changed to be released from civil commitment.

(#2.) Evidence that was with held by the State since the original 1993 conviction surfaced being the medical reports preformed on the victims showing the female had a VD at the time of the claimed commission of the crimes by appellant.

Medical Testing was preformed on Appellant showing (he) never had a VD especially at the time of the claimed crimes.

This in^{ly}turn makes it a impossibility for Appellant to have committed "any -cunnilingus, penetration, or fallacio upon the minor victim.

This was presented to the lower Court only as a point of interest / nothing more / nothing less.

Secondly, (at (#3.) the lower Court ordered an en junction barring the Respondent from any further interrogations demanding Appellant plead guilty to out of State dismissed charges.

This is exactly what Respondent is attempting to strike from the record being Attorney Carter testifying that the civil commitment of Appellant is MOOT if the Respondent can not interrogate and demand Appellant admit guilt to out of State dismissed charges / allegations.

Conclusion :

Appellant does not appeal any prior decisions, as claimed by Respondents assertions of res- judicator, Appellant is in fact using these prior Rulings as evidence against the Respondents SCC 44-48-110, 2012 expert Dr. Domino who is with out the smallest piece of evidence in support of her claims Appellant has not so changed to be released.

And again, The lower court ruled that since Appellant has not completed the treatment / he has not so changed.

This is in direct violation of the S.C. Legislature intent to require simply a showing that Appellant has so changed to be released, not whether Appellant has completed any regiment of treatment according to an examination presented byway of hear say from an absentee witness.

WJ
The Respondent is attempting to re litigate what the lower court entered as evidence at the 2/13/2013 SCC Ann. 44-48-110 Status and Annual Review hearing of which is res-judicata the Respondent for the lower court ruled in favor entering / using Appellants evidence of prior examinations supporting the courts order enjoining the Respondent.

The court used the entire record from 2002 to past the 2/13/13 hearing when making it's decisions and is material to the issues that are now on appeal.

Appellant has met his burden of proof (ie see Peter Harvey 98CP-23-3854 Supreme Court Of South Carolina (1998)

that he has so changed to be released by,

Lower
#1. showing he is past the lowest possible medical and Respondents own forensic scale of ever re-offending on upper end and

#2. On the other end, the court removed 98% of the States original allegations / claimed evidence/ against this Appellant.

Between the two ends is the Respondents own legal expert witness testifying against the hearsay Dr. Domino report stating that the civil commitment of Appellant is now a MOOT issue.

The Court should deny granting Respondents Motion To Strike and order the Respondent to show cause why this civil commitment is not a moot issue.

Respectfully submitted by,

May 12, 2014

William Deans
William Deans
7901 Farrow Rd.
Bldg. 3, 3d floor
Columbia, SC 29203

Appellant
Exhibits

AA

BB

CC

DD



ALAN WILSON
ATTORNEY GENERAL

March 6, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: In the Matter of the Care and Treatment of William Deans
Appellate Case No. 2013-000879

Dear Ms. Kitchings:

The Initial Brief of the Respondent and Designation of Matter in response to the Appellant's Initial Brief and Designation of Matter are due to be filed and served on March 6, 2014. However, due to a heavy workload, I am requesting a 30-day extension to file these documents. This is a first extension request, and it is not intended for the purpose of delay.

I appreciate your consideration of this request and ask that you hold the filing time in abeyance during the time in which this request is pending. By copy of this letter, I am advising Mr. Deans of this extension request.

Sincerely,

Deborah R.J. Shupe
Senior Assistant Deputy Attorney General

DRJS/sbe

cc: Mr. Williams Deans
Victim Services

Appellant Exhibit (AN)

The South Carolina Court of Appeals

In the Matter of the Care and Treatment of William
Deans, Appellant.

Appellate Case No. 2013-000879

The Honorable J. C. Nicholson, Jr.
Anderson County
Trial Court Case No. 2002CP0403343

ORDER

The request for an extension to serve and file the initial brief of respondent and designation of matter is granted and extended until April 7, 2014. Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 (www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01), any further extension request must be based on a showing of good cause.

FOR THE COURT

BY V. Claire Allen
CLERK

Columbia, South Carolina

cc:
William Deans
Deborah R.J. Shupe, Esquire

FILED

3/17/14 CA

Appellant Exhibit
(BB)

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Anderson County
The Honorable J. C. Nicholson, Circuit Court Judge
Appellate Case No. 2013-000879

IN THE MATTER OF THE CARE AND TREATMENT OF
WILLIAM DEANS,

Appellant.

**RESPONDENT'S MOTION FOR SECOND EXTENSION OF TIME
WITHIN WHICH TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Respondent hereby moves for a second extension of time to file the Initial Brief of Respondent and Designation of Matter to be included in the Record on Appeal. In support of this motion, Respondent submits the following:

1. The Brief of Respondent is due April 7, 2014, pursuant to a first extension. Respondent moves for a second extension, which is not made for the purpose of delay, but due to a heavy workload.
2. In addition to her regular caseload, the undersigned supervises the Attorney General's Sexually Violent Predator (SVP) Unit. In her capacity as supervisor of the SVP unit, she is required on a daily basis to address multiple issues involving sexual predator cases, including legal issues in pending commitment and annual review cases, and she handles all sexual predator appeals.
3. In addition to the above, counsel worked on the Initial Brief and Designation in this matter, but was not able to complete it prior to the due date. The undersigned assures the Court completion of this brief is a high priority, and she will work diligently to complete it in a timely manner.

Appellant Exhibit
cc

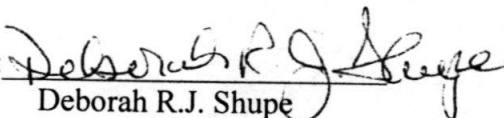
4. Appellant is *pro se* and a copy of this Motion was served on him. The undersigned is unaware of his position regarding this motion.

Based on the foregoing, Respondent respectfully requests that this Court grant a second extension of thirty (30) days in which to file the Initial Brief of Respondent and Designation of Matter, and that all deadlines be held in abeyance pending resolution of this motion.

Respectfully submitted,

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General

BY: 
Deborah R.J. Shupe
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3797

ATTORNEYS FOR RESPONDENT

April 7, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Anderson County
The Honorable J. C. Nicholson, Circuit Court Judge
Appellate Case No. 2013-000879

IN THE MATTER OF THE CARE AND TREATMENT OF
WILLIAM DEANS,

Appellant.

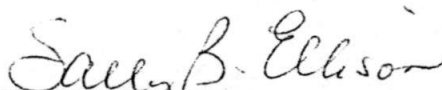
PROOF OF SERVICE

I, Sally B. Ellison, certify I served Respondent's Motion for Second Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter by depositing a copy in the United States mail, postage prepaid, addressed to:

William Deans
SVPTP
S.C. Dept. of Mental Health
Bldg. 3, 3rd Floor
7901 Farrow Road
Columbia, South Carolina 29203

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

This 7th day of April, 2014.



SALLY B. ELLISON
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-4156

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MAY 19 2014

SC Court of Appeals

The South Carolina Court of Appeals

In the Matter of the Care and Treatment of William Deans, Appellant.

Appellate Case No. 2013-000879

The Honorable J. C. Nicholson, Jr.
Anderson County
Trial Court Case No. 2002CP0403343

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MAY 19 2014

SC Court of Appeals

ORDER

For good cause shown, the request for an extension to serve and file the initial brief of respondent and designation of matter is granted and extended until May 7, 2014. Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 (www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01), any further extension request must be based on a showing of good cause and must be signed by the appropriate attorneys.

 C.J.

Columbia, South Carolina

cc:
William Deans
Deborah R.J. Shupe, Esquire

FILED

April 17, 2014

Appellant Exhibit
(DD)

**THE STATE OF SOUTH CAROLINA
In The Court Of Appeals**

**APPEAL FROM ANDERSON COUNTY
Court Of Common Pleas, 04th Judicial Circuit**

J.C. Nicholson, Circuit Court Judge

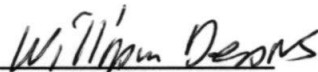
Case No: 2013-000879

**IN THE MATTER OF THE CARE AND TREATMENT OF
WILLIAM DEANS
Appellant.**

PROOF OF SERVICE

I certify that I have served "Appellants Memorandum In Support Of Appellants Motion To Deny Granting Respondents Motion To Strike, and Notice of Motion, and Appellants Motion To Deny Granting Respondents Motion To Strike, and Notice of Motion" and APPELLANTS SCACR RULE 217, MOTION AGAINST PRECEDENTS and Notice of Motion, on the, SC Attorney Generals Office by depositing a copy of it in the United States Mail, postage prepaid, addressed to attorney of record, SC Attorney Generals Office, Alan Wilson, Asst. Mrs ShupePO Box 11549, Columbia, SC 29211.

May/¹⁰3,2014



**William Deans
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, C 29203**

cc: SC Court Of Appeals

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MAY 19 2014
SC Court of Appeals

Cover

In Re Wm Dennis

2013-879

May 13, 2014

To: Honorable J. K. Tching

Please clock stamp the enclosed for filing
and return appellant's stamped copy in
provided envelope

Thank you

Wm Dennis

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MAY 19 2014

SC Court of Appeals