

**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

**APPELLANTS SCACR RULE 217, MOTION AGAINST PRECEDENTS
and Notice of Motion**

SC Court of Appeals

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 217 to Argue Against Precedents as follows.

1. The Respondent has moved to strike any reference in the Appellants Designation Of Matter, Initial Amended Brief of Appellant and Transcript of Record of the,

a) lower Courts October. 31, 2002 Order Of Dismissal of Case and

b) lower Courts November 12, 2002 Order Of With Drawl Of October. 31, 2002 Order Of Dismissal of Case.

By reference, Designation of Matter at 2. and 3.

Appellant first raised this matter in 2007 in a reply brief of Appellant to a Anders / Johnson Brief. ie: case no. 2002-CP-04-3343

Appellant had no working knowledge of this issue at the original SCC Ann. 44-48-80/90 Probable Cause Hearing and not until after receiving a copy of the clients file obtain through discovery after the fact of the Anders Brief being filed on appeal of eh order of civil commitment.

The Respondent made no Return to Appellant's Reply and this Court made a passing mention of Appellant having filed a prose response to a Anders Brief in it's Order of denial of relief, SCAC Unpublished Opinion No: 2007-UP-162 *Herein App EX NAA REVERSE*

Appellant filed a SCACR Rule 220 and Rule 52 (a) for Re-hearing of the Denial and again was denied.

Appellant filed writ of Certiorari and again as denied.

2. According to the SCRCR Rule 52(a) and SCACR Rule 220 the matter of the States lack of subject matter jurisdiction was never given a court finding specially separately it conclusions of law there on upon, Rule 52(a) states in part

"(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find specially separately it conclusions of law thereon."

and thus Appellant raised it again at the 2012 SCC Ann. 44-48-110 Annual Review Hearing held in 2/13/2014

3. Should this Court find that Appellant assertion of the States / Courts lack of subject matter jurisdiction,

Appellant moves to argue against precedents of proceedings pursuant to Rule 239(d)(2) SCACR.

Appellant demands Equal Protection of the laws, granted to other persons pursuant to SCRCR, Rule 6(a)(b), Rule 59(d) Rule 58(a)(2).

Pursuant to SC App Opinion, 2007-UP-162, the court waived subject matter jurisdiction which is against this Court own ruling in

State vs Knuckles Op: 3438 SC Court Of Appeal

"The Subject Matter Jurisdiction of a Court is fundamental, lack of subject Matter Jurisdiction may not be waived even by consent of the parties and should be taken Notice of by the Curt".

In this insistent it is this Court that failed to take Notice pursuant to SCREvid Rule 201

The Adjudicative facts requirement of the rule is met as shown herein by Appellants Exhibits by reference to Designation of Matter (2. and 3.) see hereto Appellants Exhibit (2. and 3.)

4. This Court and the Supreme Court of South Carolina has consistently ruled that Rule 59(d) and Rule 58(a)(2) are jurisdictional

a) Rule 59(d) SCRCPP, see.

The Citizens and Southern National Bank of South Carolina v. Wiley B. Easton Sr., Patrica M. Easton and Wiley B. Easton Jr., Appellants-Respondents. No. 23806 Supreme Court Of South Carolina 310 S.C. 458 / 427 S.E.2d 640 (S.C. 1993) states

""A. New Trial, Rule 59(d), SCRCPP, provides that the court, may order a new trial 'not later than 10 days after entry of judgment...[a]fter giving the parties notice and on opportunity to be heard on the matter"

""This time limitation may not be extended, Rule 6(b) SCRCPP; Buxton v. Thompson Dental Co. 307 S.C. 523, 415 S.E.2d 844 (S.C. App.1992)

b) Rule 58(a) see

Ex Parte Stephen S. Reichlyn Appellan, In re South Carolina Department Of Health and Environmental Control Respondent v. Columbia Organic Chemical Co, Inc., Responden 310 S.C. 495, 427 S.E.2d 661 (S.C.) 23981 Ex parte Reichlyn, states,

**"Reichlyn's judgment was not final until it was written and entered", and quoting
First Union Nat'l Bank v. Hitman Inc., 306 S.C. 327, 41 S.E.2d 681 (SC Ct. App. 1991)**

affirmed 308 S.C. 421, 418 S.E.2d 545 (1992)

see also Rule 58(a), SCRPC (judgment not effective until entered in the record)

Conclusion:

Appellant does not compare his case and events with those depicted in cases of equity. see

Whitehead vs State Op: 23759, 310 SC 532 / 425 SE2d 315 (1992)

**"Rules of procedure like statues should be given their plain meaning and when the text of rule
is clear and unambiguous / judicial inquiry is complete.**

**Appellant simply demand equal treatment and protection of the laws controlling the limitations
in which all courts of South Carolina authority are invested with pursuant to the same set of
rules of procedure.**

**And like wise Appellant demands the same relief granted to other litigates due to the limitations
afforded both the courts and party's.**

**In this case, the lower court issue an order dismissing this case. Then 7 days later the lower
court produced in writing an order with drawing its prior order of dismissal.**

**The lower Court was well within its discretion when reducing to writing it's order of with drawal
pursuant to Rule 59(d) SCRPC.**

**That was up to that point, the court erred by issuing it's order with out giving notice to the
party's before filing it's final order of with drawal.**

Rule 59(d) SCRCF is very clear in it's two part direction being

Part (1) provides that the court, may order a new trial 'not later than 10 days after entry of judgment...

And Part (2) ...[a]fter giving the parties notice and on opportunity to be heard on the matter"

No where in the record is there a notice to the party's as shown by the hereto Exhibits

Appellants Exhibits (2.) Order Of Dismissal, (3.) Order Of With Drawal

Exhibit (2.) signed Oct. 30 2002, filed Oct. 31, 2002

Exhibit (3.) signed Nov. 7, 2002 filed Nov. 12, 2002.

Purus ant to Rule 6(b) SCRCF the clock started running on Nov. 1, 2002.

See calendar for 2002 shows Nov. 1, 2002 fell on a Friday.

Rule 59(d), Rule 6(b) shows the tenth day fell on a Sunday, deferring the limitation to be at exactly 5:00 pm Monday, the 11th November 2002.

Appellants Exhibit 3. clearly shows being clock stamped at 2:36 pm on Nov. 12, 2002.

The court can infer that Appellant suffered no prejudice for the late filing. This is not so.

Prejudice can be shown that he has been denied the right to having been given a Notice to be heard ie: Rule 59(d). And Having spent 11 years in interrogative Detention.

Appellant did not learn of the With Drawal of Order To Dismiss until believed to have been in Feb. 2003 date of the Probable cause hearing. Which according to appointed Attorney James Cox who himself did not learn of the Order of With Drawal some 20 minutes prior to the hearing.

Either way, the matter was not ruled upon by the lower Court making it not ripe for appeal when Appellant raised the issue up in his pro-se reply brief, which is why this Court ignored discussing / ruling upon Appellants pro-se brief.

The matter did not become ripe until Appellant brought it up again and was denied by the lower Court and is now an issue before this Court and is why Respondents assertions of res-judicartor are misplaced.

see Rental Uniform Serv. of Greenville S.C. 292 S.C. at 574 357 S.E.2d at 724

""an issue raised but not ruled on by the trial court is not preserved and the complaining party must move before the trial curt to amend the judgment pursuant to Rule 59(e) SCRCF."

Appellant was nt allowed t raise the issue of the courts lack of subject matter jurisdiction at the Feb. 2003 Probable Cause Hearing, because it is not with in the discretion of the Court of that Court to hear it pursuant to Rule 59(d) SCC Ann. 44-4810/170 at 80/90.

Appellant raised subject matter jurisdiction at the June 2004 SCC Ann. 44-48-100 trial and the court refused to hear the challenge.

Appellant raised the issue up on direct appeal in his pro-se reply brief and again this Court refused to discuss or rule upon the issue.

Appellant raised the issue up at the 2/3/2013 SCC Ann. 44-48110 hearing and was denied.

It appears the issue is ripe for appellate review at this time.

The issue is that at exactly one second past 5:00 pm on Nov. 11, 2002 the clock stopped and an absolute bar was placed upon the lower Courts Order Of With-Drawal Of Order Of Dismissal Of Case.

And accordingly the Clerk Of Court did not have the jurisdictional authority to have clock stamped the With drawal order ie: pursuant to Rule SCRCF. Rule 6(a)^{vd}

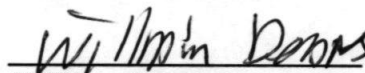
Wherefore, Appellant moves this Court

- 1. To afford Appellant his reasonable expectation to receive equal protection of the laws.**

- 2. Should this find that it's prior ruling upon the 2007 pro-se reply of Appellant is res-judicator to Appellant having raised the matter up again / subject of this appeal Appellant moves that this matter remain in this the "Initial Amended Brief Of Appellate Case No: 2013-000879**

5/12/2014

Respectfully submitted by



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

Appellant
Exhibits

12

13

ANA

COUNTY OF ANDERSON)

COUNTY OF ANDERSON,)

Plaintiff,)

v.)

WILLIAM O. DEANS,)
Defendant.)

ORDER

Case No. 2002-CP-10-3343

1. The Order of this Court, signed November 1, 2002, finding no probable cause in the above-captioned matter is hereby withdrawn.
2. This Court hereby finds that probable cause does exist for the above-captioned matter to move forward.

IT IS SO ORDERED.

Anderson, South Carolina
11/7, 2002

J.C. Nicholson, Jr.

 The Honorable J.C. Nicholson, Jr.
 Presiding Judge

Appellant Exhibit
12

A TRUE COPY

Carry on Phillips
CLERK OF COURT

FILED - CLERK'S OFFICE
 ANDERSON SC
 2002 NOV 12 P 2:36
 GENERAL SESSIONS AND
 CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

IN THE MATTER OF THE CARE AND TREATMENT OF WILLIAM O. DEANS, RESPONDENT.

CASE NO. 02-CP-2002-31 A 10 36 (NON-JURY)

DISMISSAL COMMON PLEAS AND GENERAL SESSIONS

Bob

This matter comes before me on petition of the State of South Carolina for an order finding that sufficient probable cause exists that the Respondent is a sexually violent predator as defined by South Carolina Code Section 44-48-30, and scheduling a hearing to contest probable cause.

I have reviewed the petition in this case and considered the showing made in respect to this matter and am of the opinion that the State has failed to demonstrate that probable cause exists to find that the Respondent is a sexually violent predator. I find that the State has failed to present sufficient evidence that the Respondent suffers from a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment as required by South Carolina Code Section 44-48-30(b). THEREFORE the State's petition in this matter is denied.

AND IT IS SO ORDERED.

October 30, 2002 Anderson, South Carolina

The Honorable J. C. Nicholson, Jr., Chief Administrative Judge for the Tenth Judicial Circuit Court of Common Pleas

A TRUE COPY

NOV 04 2002

Caryn M. Phillips CLERK OF COURT

Appellant Exhibit

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CS

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Appeal From Anderson County
J. Cordell Maddox, Jr., Circuit Court Judge

Unpublished Opinion No. 2007-UP-162
Submitted April 2, 2007 – Filed April 5, 2007

AFFIRMED

James M. Cox, Jr., of Williamston, for Appellant.

Attorney General Henry Dargan McMaster, Chief
Deputy Attorney General John W. McIntosh,
Assistant Attorney General Deborah R.J. Shupe, and
Assistant Attorney General R. Westmoreland
Clarkson, all of Columbia, for Respondent.

Appellant Exhibit
AAA

PER CURIAM: This appeal arises from an Order of Commitment finding William Deans should be committed to the Department of Mental Health as a sexually violent predator. The court denied several pro se motions filed by Deans. Additionally, the court found the State proved beyond a reasonable doubt that Deans is a sexually violent predator as defined in sections 44-48-90 and -100 of the South Carolina Code (2002).

On appeal, counsel for appellant has filed a final brief along with a petition to be relieved as counsel. Appellant has filed a pro se response. After a thorough review of the record pursuant to Anders v. California, 336 U.S. 738 (1967), and In re McCoy, 360 S.C. 425, 602 S.E.2d 58 (2004), we affirm¹ the circuit court's ruling and grant counsel's petition to be relieved.

AFFIRMED.

HEARN, C.J., and GOOLSBY and STILWELL, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR

**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/3rd, 2014



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

cc: SC Court Of Appeals

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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 appellants stamped copy in
provided envelope

Thank you

Wm Dennis

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MAY 19 2014

SC Court of Appeals