

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
IN THE MATTER OF THE)
CARE AND TREATMENT OF)
)
RICHARD HOLBROOK)
)
Respondent)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2009-CP-10-07168

ORDER SUBSTITUTING COUNSEL

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2014 MAR -3 AM 9:36

FILED

IT APPEARING to this court that **STEPHEN A. BUTAITIS, ESQUIRE**, was appointed to represent this matter for the Respondent, **RICHARD HOLBROOK**, it is hereby:

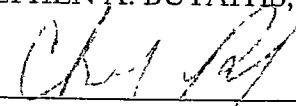
ORDERED, ADJUDGED AND DECREED, that **CHARLES T. BROOKS, III, Esquire**, be and is hereby substituted as appointed counsel of record in the above captioned for the Respondent as of the 28th day of January, 2014, **STEPHEN A. BUTAITIS, ESQUIRE**, is hereby relieved of all duties of representation of the above-captioned for the Respondent.

AND IT IS SO ORDERED!

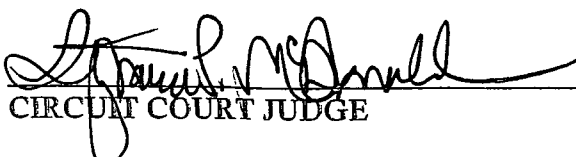
We Consent:



STEPHEN A. BUTAITIS, ESQUIRE



CHARLES T. BROOKS, III, Esquire



CIRCUIT COURT JUDGE

Charleston, SC Feb. 7, 2014

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JUL 01 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
RICHARD HOLBROOK,)
RESPONDENT.)
_____)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 2009-CP-10-07168

**ORDER DENYING
ANNUAL REVIEW TRIAL**

BY _____
JULIE J. ARISTORICO
CLERK OF COURT
2013 FEB -5 AM 9:58

FILED

This matter came before the Court on petition of the Respondent, Richard Holbrook, for an order finding that there is probable cause to believe that his mental abnormality or personality disorder has so changed that he is safe to be at large and, if released, is not likely to commit acts of sexual violence, and for an order requiring a trial on the issue pursuant to S. C. Code Ann. Section 44-48-110. An Annual Review hearing was held in the Charleston County Court of Common Pleas, pursuant to that statute, on January 30, 2013. Respondent was present along with his attorney Stephen A. Butaitis of Charleston. The State of South Carolina was represented by Senior Assistant Attorney General James G. Bogle, Jr.

Respondent exercised his right to obtain an independent evaluation from Dr. Thomas V. Martin. Testimony was received from Dr. Martin on Respondent's behalf at the January 30 hearing. Testimony on behalf of the State was received from Dr. Marie E. Gehle, Chief Psychologist at the Department of Mental Health. Introduced into evidence were the letter from the Department to the Chief Administrative Judge of this Circuit concerning this Annual Review, the Election to Exercise Rights signed by the Respondent, and the Annual Review Report prepared by Dr. Gehle.

Respondent was convicted in 2009 of Criminal Solicitation of a Minor and Sexual Exploitation of a Minor in the Second Degree. These convictions flowed out of chats Respondent had had online with who he believed to be an adult female and her 12-year-old daughter; unknown to Respondent these persons were an undercover law enforcement officer. When Respondent traveled to South Carolina to meet with and engage in sexual relations with the mother and daughter he was arrested at the Charleston International Airport. Found in Respondent's possession was a laptop containing an extensive collection of pornographic materials, many including very young children. It was established that he collected and traded such materials online.

The original diagnosis that resulted in Respondent's commitment to the Sexually Violent Predator Treatment Program on or about September 13, 2010 was pedophilia, sexually attracted to females, non-exclusive.

Dr. Martin testified that Respondent still had the same diagnosis, but he characterized it as being "in recovery." Dr. Martin further testified that based upon his review of the relevant documents, treatment records of Respondent, and his interview with Respondent, Respondent's mental abnormality had so changed that he was safe to be at large, and not likely to commit acts of sexual violence, provided Respondent entered outpatient treatment.



Dr Gehle testified that Respondent's diagnosis was the same as when he was committed, however, she testified that the qualifier "in recovery" or "in remission" was not allowed by the Diagnostic and Statistical Manual IV-TR, also the "DSM" Both doctors testified that a diagnosis of pedophilia is chronic.

The leading case in this State on annual reviews conducted pursuant to Section 44-48-110 is *In The Matter of The Care and Treatment of Tucker*, 353 S.C. 466, 578, S.E.2d 719 (2003). In a Section 44-48-110 probable cause hearing the Court noted that the committed person has the burden of showing the court that probable cause exists to believe that his mental condition has so changed that he is safe to be released. *Tucker*, 578 S.E.2d at 722. There is no qualifying language in the Statute, such as to provide that a committed person would be safe to be at large if he was in some kind of treatment. The Statute's burden on the committed person is that he is safe to be at large, and no more.

The Court has considered the showing made in respect to this matter and finds and concludes that the Respondent has failed to show probable cause that his mental abnormality or personality disorder has so changed such that he is safe to be at large and, if released, is not likely to commit acts of sexual violence. His petition is denied and no order requiring a trial shall be ordered on that issue.

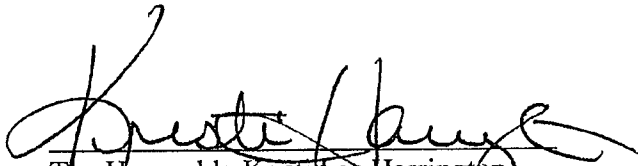
Accordingly,

IT IS HEREBY ORDERED that the Respondent shall continue to be confined in a secure facility of the Department of Mental Health for long term control, care and treatment pursuant to the Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

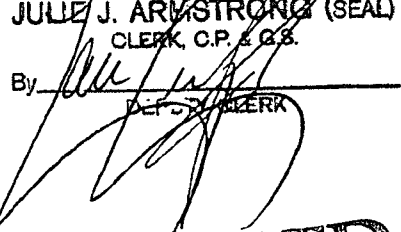
IT IS FURTHER ORDERED that the Respondent continues under the jurisdiction of this Court.

AND IT IS SO ORDERED.

February 4, 2013
Charleston, South Carolina


The Honorable Kristi Lea Harrington
Circuit Court Judge for the Ninth Judicial
Circuit

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P. & C.S.

By 
CLERK

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SC Court of Appeals

The Brooks Law Office, LLC

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June 30, 2014

South Carolina Court of Appeals
Attn: V. Claire Allen, Deputy Clerk of court
State of South Carolina
P.O. Box 11629
Columbia, South Carolina 29211

RE: In the Matter of the Care and Treatment of
Richard Holbrook
Case No. 2009-CP-10-07168
Appellate Case No. 2014-000726

Dear Ms. Allen:

I am in receipt of your correspondence dated June 26, 2014. Please be advised that I represent Mr. Holbrook now as I was substituted as his counsel on January 28, 2014.

At the time of his Annual Review Hearing in January 2013, Mr. Stephen A. Butaitis, Esquire represented him. I apologize if my June 12, 2014, letter was not clear to this fact. I have enclosed a copy of the Order Substituting Counsel for your review as well as a copy of the Order Denying Annual Review file stamped February 5, 2013. I am currently the attorney for Mr. Holbrook's appeal having been substituted for Mr. Bautaitis.

If you have any questions or concerns, please contact my office at the number listed above.

With kindest regards, I remain,

Sincerely Yours,



Charles T. Brooks, III
CTB,III/srw

Enclosed as stated

cc: James G. Bogle, Jr., Asst. Attorney General
Office of Appellate Defense/Salley W. Elliott
Richard Holbrook

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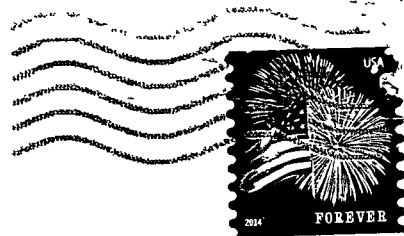
JUL 01 2014

SC Court of Appeals

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COLUMBIA SC 290

30 JUN 2014 FN 1 L



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