

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

CERTIORARI TO DORCHESTER COUNTY

Honorable Diane Schafer Goodstein, Circuit Court Judge

IN THE MATTER OF THE CARE AND TREATMENT OF DENNY BATES,

APPELLANT

Appellate Case No.: 2014-001549

MCCOY PETITION FOR WRIT OF CERTIORARI

Charles T. Brooks, III
The Brooks Law Offices, LLC
309 Broad Street
Post Office Box 3512
Sumter, South Carolina 29151

Telephone:(803) 418-5708
Facsimile: (803) 934-9618
cbrooks@ctbrooks.com

Attorney for Appellant

RECEIVED

AUG 06 2014

SC Court of Appeals

INDEX

INDEX.....	2
ISSUES PRESENTED.....	3
STATEMENT.....	4
ARGUMENT.....	5
CONCLUSION.....	6

ISSUES PRESENTED

Appellant argues that the Court erred in not finding probable cause and allowing the Appellant a Jury Trial to determine his eligibility for release from the custody of the South Carolina Department of Mental Health and their Sexually Violent Predator Program.

STATEMENT

Appellant was ordered into the custody of the South Carolina Department of Mental Health (SCDMH) and their Sexually Violent Predator (SVP) Program on or about March 30, 2007.

In accordance SC Code §44-48-110, SC Code of Laws, 1976, as amended, with individuals who are being held by SCDMH as part of the SVP Program are entitled annually to an evaluation and review of their status for significant changes which would merit review by trial to determine the eligibility of the confined individual to release from the SVP Program.

On July 11, 2014 Judge Diane Schafer Goodstein determined that there did not exist such probable cause to warrant a hearing on the Appellant's case.

Thereafter, Notice of Intent to Appeal was timely filed.

ARGUMENT

In accordance with SC Code §44-48-110, SC Code of Laws, as amended, the Appellant should have been granted an Annual Review Hearing in which a Jury would determine his eligibility for release from the SVP Program through SCDMH. It is the Appellant's position that he has put forth sufficient evidence to establish probable cause as required by the statute. The Court should bear in mind the standard for probable cause that the State has to show at the outset of the case.

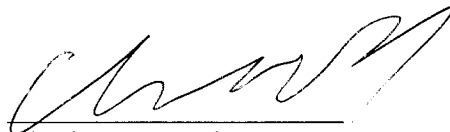
In the Annual Review hearing, the burden is on the Appellant to submit evidence that probable cause does exist that his condition is so changed, pursuant to SC Code of Laws §44-48-110. If such evidence is provided then the offender, Appellant, is entitled to a trial by jury to determine if he/she should be released from the custody of SCDMH.

The Court defines probable cause as it relates to the Sexual Violent Predator Act. In re The Care and Treatment of Brown, 372 S.C. 611, 643 S.E. 2d 118 (Ct. App. 2007), The Care and Treatment of Chandler, 678 S.E.2d 676, 382 S.C. 250 (SC 2009) "Probable cause does not demand any showing that such a belief is correct or more likely true than false", Chandler. Further the Court in Chandler indicates that the Appellate Court will not disturb the trial court's findings on probable cause unless found to be without evidence that reasonably supports the trial courts findings citing In the Matter of the Care and Treatment of Tucker, 353 S.C. 466, 470, 578 S.E.2d, 719, 721 (2003)

CONCLUSION

The denial of the Appellant's Annual Review Hearing (by Jury) should be reversed and the Appellant should be granted a Review Trial in this matter.

Respectfully submitted,



Charles T. Brooks, III
The Brooks Law Offices, LLC
309 Broad Street
Post Office Box 3512
Sumter, South Carolina, 29151
(803) 418-5708

Attorney for the Appellant

July 25, 2014

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
Honorable Diane S. Goodstein, Circuit Court Judge

Case No: 2008-CP-18-1800

In the Matter of the Care and Treatment of

Denny Bates

PROOF OF SERVICE


I, the undersigned, do hereby certify that on this 4th day of August, 2014, I served the foregoing **McCoy Petition for Writ of Certiorari**, as well as **Proof of Service** in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on August 4, 2014, addressed to the following as indicated below:

Office of Attorney's General
Attn: Deborah Shupe, Esquire
Post Office Box 11549
Columbia, South Carolina 29211

Mr. Denny Bates
S. C. Dept. of Mental Health
SVP Program
7901 Farrow Road
Columbia, South Carolina, 29203

South Carolina Court of Appeals
Attn: Jeanette F. Barber
Post Office Box 11629
Columbia, South Carolina, 29211

Dated: August 4, 2014



Charles T. Brooks, III
Attorney for the Appellant
309 Broad Street
Sumter, South Carolina 29150
(803) 418-5708

RECEIVED
AUG 06 2014
SC Court of Appeals

The Brooks Law Office, LLC

CHARLES T. BROOKS, III, ATTORNEY AT LAW
IRMA R. BROOKS, ATTORNEY AT LAW

309 BROAD STREET ~ SUMTER, SOUTH CAROLINA 29150
POST OFFICE BOX 3512 ~ SUMTER, SOUTH CAROLINA 29151
(803) 418-5708

FAX: (803) 934-9618 TOLL FREE: (877) 770-8792

Email: cbrooks@ctbrooks.com

August 4, 2014

South Carolina Court of Appeals
Attn: Jeanette F. Barber, 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
Denny Bates
Appellate Case No.: 2014-001549

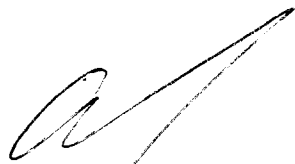
Dear Ms. Barber:

Enclosed herewith you will find the McCoy Petition for Writ of Certiorari, along with the Proof of Service for filing in reference to the above matter.

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/jlm
Enclosed as stated

cc: Deborah Shupe, Asst. Attorney General
Denny Bates

RECEIVED
AUG 06 2014
SC Court of Appeals

The Brooks Law Offices, LLC
309 Broad Street
Post Office Box 3512
Sumter, South Carolina 29150



South Carolina Court of Appeals
Attn: Jeanette F. Barber, Clerk of court
State of South Carolina
P.O. Box 11629
Columbia, South Carolina 29211

2921131629 6012

