

Dear Ms. Brown:

Enclosed for filing is a notice in the above case.

Without Prejudice U.C.C. 1-207

Michael E. Hamm
7901 Farrow Road
Bldg. #3/ 3rd Floor
Columbia, SC 29203-3220
Pro-Se Appellant

cc: James Bogel, Esq.
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
Attorney for Respondent[s]

June 01, 2014

Karen V. Andersen
Post Office Box -----
Moncks Corner, SC 29461

RE: The State Of South Carolina, Respondent v. Michael E. Hamm, Appellant,
Case No. 2014-CP-08-4436

On March 18, 2014, the above case was heard before the Honorable Deadra L. Jefferson, Circuit Court judge, in Berkeley County. My Records indicate that you were the court reporter for this case.

I request that you provide me with a transcript of the proceedings. Please transcribe the entire record.

I will be seeking to have the Court allow me to receive the funding for said transcript. Or, I agree to pay per page charge for this transcript as provided by Rule 607, SCACR.

2: motion of objection [see enclosed copy]

Michael E. Hamm
7901 Farrow Road
Bldg. #3 / 3rd. Floor
Columbia, SC 29203- 3220

June 7th 2014

To: The Honorable Mary P. Brown
Berkeley County Clerk OF Court
Post Office box 219
Moncks Corner, South Carolina
29461-0219

RE: In the Matter of the Care and Treatment of Michael E. Hamm
Case No.: 2010- CP- 08- 4436

Dear Ms. Brown:

Enclosed herewith please find an original and two copies of the Objection to the Return to Motions for Hearing and to Dismiss in connection with the above referenced case.

Please file the original and return two certified copies in the enclosed envelope.

Thank you.

Respectfully Submitted

Michael E. Hamm
Pro-Se Petitioner's

Enclosures

cc: James G. Bogel, Jr., Senior Assistant Attorney General;
Mary P. Brown, Clerk Of Court, Berkeley County;
File.

STATE OF SOUTH CAROLINA]	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY]	NINTH JUDICIAL CIRCUIT
]	CASE NO.: 2010- CP- 08-4436
IN THE MATTER OF THE CARE AND]	
TREATMENT OF:]	OBJECTION TO THE STATES RETURN TO
]	MOTIONS FOR HEARING AND TO DISMISS
MICHAEL E. HAMM]	
RESPONDENT]	

To: Mr. James G. Bogel, Jr., Senior Assistant Attorney General, Post Office Box 11549, Columbia, South Carolina, 29211-1549; The Honorable Mary P. Brown Berkeley County Clerk OF Court; Post

Office box 219; Moncks Corner, South Carolina, 29461-0219.

“”This Legal Issue is based upon The Constitutions of this State and The United States in that it is clearly stated: “That No Person's Protected Liberty Interest to Undue Restraint will be Ignored.”” That is what this whole issues is about. The Court Appointed Counsel that are given to represent us, they no longer do their jobs. As is noted in the Following and in Documentation – it will be shown that Mr. Hamm's --- “”*Protected Liberty Interest to Undue Restraint*””--- has been violated not once but twice by court appointed counsel's.

YOU WILL PLEASE TAKE NOTICE that the Respondent would make the following Objection to the States Return to Motions for Hearing and to Dismiss, asking that the States Motion be Denied, and that Court consider not prohibiting Respondent from filing future pleadings without paying any requires Motion fees. In support of this Objection the following is offered:

1. I am a resident in the Department of Mental Health in [t]hier Sexually Violent Predator Treatment Program and as such I am considered in poverty status; and can proceed in IN FORMA PAUPERIS with the Courts permission. (Exhibit 1).
2. On or about March 18, 2014 following a hearing conducted by the Honorable Judge Deadra L. Jefferson, I was allowed to proceed in Pro- Se Status.
3. The Attorney General is in error in [H]is answer in # 3 of his Return to Motions for Hearing and to Dismiss. The Motion for a Hearing and Dismiss is raised as a claim as to the violation to S.C. Code Section 44-48-110 also raised in a Declaratory Judgment pursuant to S.C. Code of Law Ann. § § 15-53-10 to 140 (1976 & Supp. 2008), and Rule 57, 12 (b)(1) and 41 (b) of the South Carolina Rules of Civil Procedure.(see Motion before the Court)
4. I have the following charges brought against both court appointed counsel under the Constitution of this State and the Federal Constitution.

I, charge Mr. George B. Bishop, Jr., with Ineffective Assistance of Counsel and violation of Dr-6-101, for [H]e did not at any time make the State prove at any time ,nor, as to the Legal Issue of S.C. Code Ann. § 44-48-110 being violated; as mentioned the forgoing-Legal Issues referenced and raised herein. S.C. Const. Art. I, § 3, 12 & 14, U.S.C.A. Const. Amend. 5,6, &14. Mr. Bishop was made aware of the Violation to S.C. Code Ann. § 44-48-110 September 2012, he stated that he was no longer my counsel. Then 10 months later he found out through the Court that he was still my counsel, [h]e at this time filed a Motion to Compel the Department of Mental Health on June 26, 2013-- eleven months past the 2012 annual review hearing.

*** “” Note: In a Court Hearing held in Berkeley County there was a hearing on an Order Substituting Counsel On September 18, 2013. The Order is signed by both counsels and the Judge. On September 24, 2013 I was notified of this by Mr. Bishop, my first counsel.””***

~~I, charge Mr. Charles T. Brooks, III, with Ineffective Assistance of Counsel and violation of Dr-6-101, for [H]e did not at any time make the State prove at any time, as to the Legal Issue of S.C. Code Ann. § 44-48-110 being violated; as mentioned the forgoing-Legal Issues referenced and raised herein. S.C. Const. Art. I, § 3, 12 & 14,~~

U.S.C.A. Const. Amend. 5,6, &14.

(see Motion before the Court and included documents to prior counsels as evidence)

5. The Attorney General is in error in [H]is answer in #4 in that [H]e states a the procedure for the Annual Review Hearings under S.C. Code Ann. Section 44-48-110. The Department of Mental Health was/ are in violation of the Law. The Attorney General is still in error as to the additional psychologist to remedy the situation. In September of 2012, I notified counsel {Mr. Bishop} as to the violation of the law and my counsel stated that he was no longer my counsel, then on or about 10 months later he found out that he was still my counsel and filed Motions to Compel the State to following the guidelines under S.C. Code Ann. Section 44-48-110. The argument is that "*The Department of Mental Health at no time contacted counsel or myself as to the Annual Review Hearing as is Required by Law until counsel filed documents to have them comply.*"
6. The Attorney General is in error in [H]is answer in # 5 in that I was represented by Mr. George B. Bishop, Jr., and then I was given Mr. Brooks as my attorney, who deceived me into giving him the approval to Waive the Annual Review Hearing over the phone on January 18, 2014. On January 19, 2014-- I sent Mr. Brooks and the Attorney General's Office a letter wanting to pull back my consent as to waiving the Annual Review Hearing. This Legal issue was raised in the Hearing on March 18, 2014 to relieve counsel and as noted in the States (exhibit 5) I have an Appeal on the Legal Issue of the Violation of the Law under S.C. Code Ann. Section 44-48-110. (see enclosed document[s])
7. The Attorney General is in error in [H]is answer in # 6 in that [H]e is wrong in that it has to do with the order by Chief Administrative Judge Stephanie P. McDonald on January 31, 2014. There was an Objection to this Order sent to the Honorable Mary P. Brown, Clerk of Court, Berkeley County and to Chief Administrative Judge Stephanie P. McDonald, Charleston County (see enclosed copy of Motion)
8. This Court should not bar Mr. Hamm from filing future filings without paying due to his indigent status, as to his present condition under which he resides. Mr. Hamm has been granted IN FORMA PAUPERIS with the Courts and should be allowed to continue to do so.

WHEREFORE, IT IS REQUESTED THAT the Motions for a Hearing and to Petition for Release and to Dismiss Said Case be granted, and the Court grant such other and further relief as is appropriate. Raised as a Constitutional Rights Legal Action under Article I, Section 3, 12 & 14 of the South Carolina Constitution, under U.S.C.A. Const. Amend. 5, 6 & 14 of the United States Constitution, also Dr. 6-101, and under South Carolina Rules of Evidence, and Rule 57; Rule 12 (b)(1) and 41 (b) (S.C.R.E.), seeking Declaratory Judgment pursuant to S.C. Code of Law Ann. § § 15-53-10 to 140 (1976 & Supp. 2008), and for Other Legal Issues Herein Raised, against the Defendant[s]; Party Defendant[s] and the State of South Carolina, and ask for attention regarding the forgoing.

Columbia, South Carolina
July ,2014

Respectfully Submitted
Without Prejudice U.C.C. 1-207

Michael E. Hamm

7901 Farrow Road
Bldg. #3 / 3rd. Floor
Columbia, SC 29203- 3220

In The Court of Common Pleas

In the Matter of the Care and Treatment of
Michael E. Hamm

Respondent

vs.

The State of South Carolina

Defendant[s]

and Party Defendant[s]

RECEIVED

AUG 19 2014

SC Court of Appeals

C/A/No. 2010-CP-08-4436

AFFIDAVIT OF SERVICE

I, Michael E. Hamm, do Swear or Declare that on this date, July 31, 2014. I have served the enclosed on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States Mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within three (3) calendar days.

The names of those served are as follows:

Clerk of Court, The Court of Common Pleas
Berkeley County
Post Office Box 219
Moncks Corner, S.C. 29461-0219

Office of the Attorney General
c/o Mr. Bogel, Jr.,
Post Office Box 11549
Columbia, S.C. 29211-1549

Respectfully Submitted
Without Prejudice U.C.C. 1-207

Michael E. Hamm
7901 Farrow Road
Bldg. #3/ 3rd Floor
Columbia, S.C. 29203-3220

cc:// Clerk of Court, Berkeley County;
Office of the Attorney General;
File.

Michael E. Hamm
7901 Farrow Road
Bldg. #3 // 3rd Floor
Columbia SC 29203-3220

June 15, 2014

ATTENTION PLEASE

To: The Honorable Mary P. Brown, Clerk of Court's;
The Honorable Chief Administrative Judge for
the Ninth Judicial Circuit, Berkeley County.
Post Office Box 219
Moncks Corner, SC 29461-0219

Re: Filing

Ms. Brown,

Enclosed you will find five (5) motions. Please clock-stamp them--- then send me back four (4) of the motions in the enclosed envelope, provided.

Can you please notify the The Honorable Stephanie P. McDonald Chief Administrative Judge for the Ninth Judicial Circuit, Court of Common Pleas--- 100 Broad Street, Suite 427, Charleston, South Carolina 29401. *****Note: Every time I correspond to [h]er at this address the Clerk of Court, Julie J. Armstrong sends back my document[s] – saying that my case is not in Charleston County. * Yet, the Attorney Generals Office writes to her and has his document[s] entered and this is prejudicial to me to not allow mine to go through, thank you.***

Respectfully Submitted
Without Prejudice, U.C.C. 1-207

3: motion to compel for annual review [see enclosed copy]

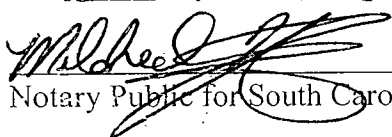
STATE OF SOUTH CAROLINA)
)
)
THE STATE OF SOUTH CAROLINA)
DEFENDANT)
V.)
IN RE THE MATTER OF THE CARE)
AND TREATMENT OF)
MICHAEL E. HAMM)

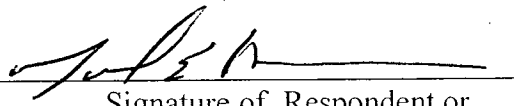
IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

**MOTION AND AFFIDAVIT TO
PROCEED IN FORMA PAUPERIS**

Case No. 2010- CP-08- 4436

I, Michael E. Hamm being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me)
this 12 day of June, 2014)
)
Notary Public for South Carolina)
My Commission expires July 7, 2018)

)
Signature of Respondent or)
Person Filing Complaint on Behalf of)
Respondent)

ORDER

- Leave is *granted* to proceed in forma pauperis without payment of the filing fee.
- Leave is granted to proceed in forma pauperis without payment of the service cost.
- Leave is *denied* to proceed in forma pauperis.

Dated: _____, 2_____
JUDGE/ CLERK OF COURT

_____, South Carolina

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

STATE OF SOUTH CAROLINA)
) IN THE SOUTH CAROLINA COURT OF APPEALS
 COUNTY OF BERKELEY)
)
 THE STATE OF SOUTH CAROLINA)
 DEFENDANT) **FINANCIAL DECLARATION**
 V.)
 IN RE THE MATTER OF THE CARE)
 AND TREATMENT OF) Case No. 2010- CP-08- 4436
 MICHAEL E. HAMM)

AGE: 56 SSN. 249-13-3280 DATE: June 22 2014

OCCUPATION: Resident, Sexually Violent Predator Unit, Department of Mental Health

PART A: INCOME AND EXPENSE STATEMENT

Gross monthly income from: Salary & wages (including commissions, bonuses, & overtime) payable weekly/ monthly, etc:	\$ <u>64.00</u>
Pensions and retirement:	\$ <u>0</u>
Social Security:	\$ <u>0</u>
Disability and unemployment insurance:	\$ <u>0</u>
Public assistance (AFCE payments, etc):	\$ <u>0</u>
Child/ spousal support:	\$ <u>0</u>
Dividends and interest:	\$ <u>0</u>
Rents:	\$ <u>0</u>
All other sources:(specify)	\$ <u>0</u>
Food stamps:	\$ <u>0</u>

TOTAL MONTHLY INCOME \$ 64.00

Itemize deductions from gross income	
Income taxes (state and federal)	\$ <u>0</u>
Social Security	\$ <u>0</u>
Disability insurance	\$ <u>2.69</u>
Medical or other insurance	\$ <u>0</u>
Union or other dues	\$ <u>0</u>
Retirement or pension fund	\$ <u>0</u>
Savings plan	\$ <u>0</u>
Other (specify-Medicare)	\$ <u>.63</u>

TOTAL DEDUCTIONS \$ 6.64

NET MONTHLY INCOME \$ 57.86

Estimated monthly expenses (specify when party is the custodial parents and list name and Relationship of all members of the household whose expenses are included)

Rent or mortgage payments (residence)	\$ 0
Real property taxes (residence)	\$ 0
Real property insurance (residence)	\$ 0
Maintenance (residence)	\$ 0
Food and household supplies	\$ 0
Utilities	\$ 0
Telephone	\$ 0
Laundry and cleaning	\$ 0
Clothing	\$ 0
Medical	\$ 0
Dental	\$ 0
Insurance (life, health, accident, etc)	\$ 0
Child care	\$ 0
Payment of child/ spousal support	\$ 0
School	\$ 0
Entertainment	\$ 0
Incidentals	\$ 0
Auto expenses	\$ 0
Auto payments	\$ 0
Installments payments (insert total & itemize below)	\$ 0

<u>CREDITOR'S NAME</u>	<u>FOR</u>	<u>MONTHLY</u>	<u>BALANCE</u>
<u>state of south carolina</u>	<u>2930 garn.</u>	<u>25 % of 64,00</u>	<u>\$450.00</u>
_____	_____	_____	_____
_____	_____	_____	_____
OTHER: (Specify)			\$ 20.09
			\$ _____
TOTAL EXPENSES			\$ <u>429.91</u>

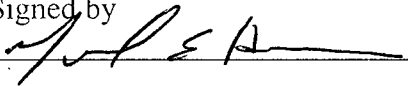
OTHER DEBTS & OBLIGATIONS

<u>CREDITOR'S NAME</u>	<u>FOR</u>	<u>DATE PAYABLE</u>	<u>AMOUNT</u>
_____	_____	_____	_____
_____	_____	_____	_____

All Property of the parties known to me include the following:

Cash on hand	\$ 0
Money in checking accounts	\$ 0
Money in savings account	\$ 0
Money in any other accounts or deposits	\$ 0
Retirement or pension fund	\$ 0
Life insurance cash value	\$ 0
Value of any stocks & bonds	\$ 0
Value of real estate	\$ 0
Value of all other property	\$ 0

TOTAL PROPERTY \$ _____

Signed by 

Sworn to and subscribed before me this

12 Day of June 2014



NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires July 7, 2018

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No. 2014-CP-08-4436

The State of South Carolina,

Respondent,

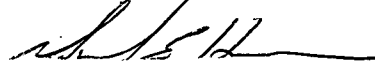
v.

Michael E. Hamm,

Appellant.

INITIAL BRIEF OF APPELLANT

Without Prejudice U.C.C. 1-207



Michael E. Hamm
7901 Farrow Road
Bldg. #3/ 3rd Floor
Columbia, SC 29203-3220
Pro-Se Appellant

RECEIVED

AUG 19 2014

SC Court of Appeals

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TABLE OF AUTHORITIES

CASES

McKaskle v. Wiggins, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed. 2d 122 (1984); *Jones v. State*, 348 S.C. 13, 558 S.E. 2d 747,751 (1998)..... 2

Gay v. Arial, 673 S.E. 2d 418 (S.C. 2009); *Edwards v. Sanford*, 678 S.E. 2d 412 (S.C. June 4, 2009); *Converse Power Corp. v. S.C. Dept. of Labor, Licensing, and Regulations*, 523 S.E. 2d 795 (Ct. App. 1999)..... 3

254 Wis. 2d 690 (Wis. App. 1998). *State ex rel. Marberry v. Macht; Karow*, 82 Wis. 2d at 572, 263 N.E. 2d 214; *State v. Sprosty*, 227 Wis. 2d 316, 324, 595 N.E. 2d 692 (1999) (citation omitted);(citing *Bd. Of Supervisors v. United States ex rel. State Banks*, 71 U.S. (4 Wall) 435, 446-47, 18 L.Ed. 419 (1867))..... 4

People v. Bailey, 265 Ill. App. 3d 758 (Ill. App. 3 Dist. 1994); *In re Care and Treatment of Ontiberos*, 287 P. 3d 855 (Kan. 2012)..... 5

People v. Lawton, 212 Ill. 2d 285, 288 Ill. Dec. 6 38, 818 N.E. 2d 326 (2004); *In re Care and Treatment of Ontiberos*, 287 P. 3d 855 (Kan. 2012); *People v. Bailey*, 265 Ill. App. 3d 758 (Ill. App. 3 Dist. 1994); *Cullen v. Pinholder*; ___ U.S. ___, 113 S.Ct. 1388 (2011); *Harrington v. Richter*, ___ U.S. ___, 113 S.Ct. 770 (2011); *State v. Van Cleave*, 239 Kan. 117, 716 P. 2d 580 (Kan. 1986); *Strickland v. Washington*, 466 U.S. 668, 686-89, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984); See *People v. Speight*, (1992) 153 Ill. 2d 365, 379-80, 180 Ill. Dec. 97, 103, 606 N.E. 2d 1174, 1180; *People v. Dunsworth*, (1992) 233 Ill. App. 3d 258, 269-70, 174 Ill. Dec. 483, 491, 599 N.E. 2d 29, 37. Raise also as under the tenets set forth in *United States v. Cronin*, 466 U.S. 648, 104 S.Ct. 20309, 80 L.Ed. 2d 657 (1984)..... 7,8

STATUTES

S.C. Code Ann. § 44-48-110; S.C. Code Ann. §§ 44-48-10 thru 44-48-170..... 2,etc.
 [These statutes are mentioned through out this Appeal document]

S.C. Code of Law Ann. § § 15-53-10 to 40 (1976 & Supp. 2008)..... 7

CONSTITUTIONAL

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STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN NOT RULING THAT 'SECOND-SEAT COUNSEL' COULD BE APPLIED IN CIVIL CASES?
2. DID THE TRIAL COURT ERR IN STATING THAT I HAVE ALREADY HAD AN 'ANNUAL REVIEW HEARING, SINCE THIS WILL BE PREJUDICIAL IN LATER PROCEEDING[S] ---SINCE NOW IT WILL NOW BE A MATTER ON RECORD OF THE COURT?
3. DID THE TRIAL COURT ERR IN STATING THAT THE DEPARTMENT OF MENTAL HEALTH HAS A '*PRO-RATED SCHEDULING SYSTEM*'? IF--SO--UPON WHO[S] AUTHORITY WAS THIS GIVEN AND WHEN DID THE LEGISLATURE CHANGE THE LAW?
4. DID THE TRIAL COURT ERR IN ALLOWING THE VIOLATION OF THE MANDATORY TIME LINE AS TO THE TIME FRAME FOR THE ANNUAL REVIEW HEARING[S] TO GO UNPUNISHED?
5. DID THE TRIAL COURT ERR IN NOT SEEING THE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM?
6. DID THE TRIAL COURT ERR IN CHANGING MY SEPTEMBER 8, YEARLY REVIEW THAT IS MANDATORY, AND THUS DID AWAY WITH MY 2013 ANNUAL REVIEW THAT IS MANDATORY BY LAW, AND [J]UDGE STATING THIS ISSUE WAS MOOT?

STATEMENT OF THE CASE

On January 29, 2014, Michael E. Hamm brought this action to dismiss counsel for ineffective assistance of counsel, and to proceed 'Pro-Se' with 'Second-Seat Counsel.' The action was heard on March 18, 2014 in front of the Honorable Deadra L. Jefferson, without Mr. Brooks-- counsel for Appellant; or, Mr. Bogel, counsel for the state. [The judge stated that Mr. Brooks and Mr. Bogel would not be present at this time and that she could not see sending me back to the program and have me come back later, so, she had the hearing with Mr. Brooks and Mr. Bogel on the telephone.]

This appeal now comes before this Honorable Court due to the Legal Question[s] raised as a 'Novel Question of Law,' as a 'Certified Question of Law,' in an "As-Applied Analysis."

FACTS

ARGUMENTS

I. BECAUSE RESPONDENT[S] HAVE NO RIGHT TO STATE THAT "SECOND-SEAT COUNSEL" IS FOR CRIMINAL CASES ONLY.

The case of *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed. 2d 122 (1984); *Jones v. State*, 348 S.C. 13, 558 S.E. 2d 747,751 (1998); is for 'second-seat counsel in criminal cases, yet, why can this not apply in civil action cases? Do we as "Pre-Trial Detainees," not have the same Constitutional Right to fair and just proceedings? We here at the Sexually Violent Predator Treatment Program do not have computer access, a law library, no court appointed counsel that will help to find cases to help us get out of here with, and the legal aide that will send us legal information works for the Department of Mental Health and will not help us past the part of sending us case laws only if we have the cases first. [T]hey will not shepardize cases for us to find better cases to help us get out of here. The court appointed counsel state: "That their only job is at trial not in-between!" On the record of the Court, stated by Judge Jefferson, [S]he stated: "That Effective Assistance of Counsel is not to assist us, that this is not what assistance means." When did it change?

II. BECAUSE THE TRIAL COURT ERR IN STATING THAT I HAVE ALREADY HAD AN 'ANNUAL REVIEW HEARING,' SINCE THIS WILL BE PREJUDICIAL IN LATER PROCEEDING[S]---SINCE NOW IT WILL BE A MATTER OF RECORD OF THE COURT?

Looking at the records, it will be shown that I came into this program on September 8, 2011. This means that on September 8, 2012- I was due for the Mandatory Requirement under S.C. Code Ann. § 44-48-110. At first I waived this hearing via a phone call on the January 18 2014, yet, I then wrote to counsel on January 19, 2014 and stated that I did not want to waive the hearing. He wrote back stating that he had already signed this Order and it was already with the Attorney Generals Office.

I never saw this Consent Order Waiving Annual Review Hearing to see that Mr. Brooks was having me waive from September 8, 2011 through July 13, 2013. I would have never agreed to this and as stated above I wanted to pull back the Consent Order Waiving Annual Review Hearing, as per my letter sent to Mr. Brooks.

Mr. Brooks had ample time to withdraw this Consent Order Waiving Annual Review Hearing ----since looking at the Consent Order Waiving Annual Review Hearing-----it was not signed by the Honorable Stephanie P. McDonald, Chief administrative Judge, Ninth Judicial Circuit, Court of Common Pleas until January 31, 2014. I filed a motion to the Clerk of Court Berkeley County and to the Clerk of Court Charleston County objecting to the State's "Consent Order Waiving Annual Review Hearing." [The Clerk of Court for Charleston County, sent it back stating that I was in the wrong court, yet, the Attorney Generals Office can write the Judge there and get a response back. I wonder why this is?

III. BECAUSE RESPONDENT[S] ARE INCORRECT IN STATING THAT THE SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH HAS PRO RATED SCHEDULING SYSTEM.

Who authorized the State and the Department of Mental Health to have this *PRO RATED SCHEDULING SYSTEM*? When did the Legislature change the Statutory Law in S.C. Code Ann. §§ 44-48-10 thru 44-48-170 authorizing the State and the Department of Mental Health to have this *PRO RATED SCHEDULING SYSTEM*? I have the 2013 Sexually Violent Predator Laws and I do not see this authorization anywhere giving the State and the Department of Mental Health this authority. The law is plain on the Mandatory Requirement and it is not amendable except by Legislative Decree.

VI. BECAUSE RESPONDENT[S] ARE INCORRECT FOR ALLOWING THE SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH, AND THE STATE OF SOUTH CAROLINA THE VIOLATION OF THE MANDATORY LAW AS TO THE TIME LINE OF THE ANNUAL REVIEW HEARINGS.

“The Department of Mental Health and State that runs this program are Violating my Civil Right's and Constitutional Rights, due to [T]hem not following “*The Mandatory Requirement in § 44-48-110*” raised in an “As- Applied Analysis.” [T]hey are Violating my Civil Rights, Due Process, and Equal Protection Rights of the State and Federal Constitution under S.C. Const. Article I, Section 3, 12 & 14 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State.”

1. South Carolina Code of Law Ann. § 44-48-110 states: Periodic mental examination of committed persons; report; petition for release; trial to consider release. A person committed pursuant to this chapter *must* have an examination of his mental condition performed *once every year*. The person may retain or, if the person is indigent and so request, the court may appoint a qualified expert to examine the person, and the expert *must* have access to all medical, etc..... The Annual Report *must* be provided to the court which committed the person pursuant to this chapter, the attorney General, etc..... The court *must* conduct an annual hearing to review the status of the committed person. The person is not prohibited from petitioning the court for release at this hearing. The Director of the Department of Mental Health *must* provide the committed person with an annual written notice of the person's right to petition the court for release over the Director's objection; the notice *must* contain a waiver of rights. The Director *must* forward the notice and waiver to the court with the annual report. Etc.....

2. All the evidence that will be presented will show that this was not complied with in accordance with the South Carolina Code of Law Ann. § 44-48-110 states: Periodic mental examination of committed persons; report; petition for release; trial to consider release. The Appellant's Constitutional Right's to Equal Protection of the Laws has been violated by the Defendants, and his Constitutional Right's not to be subjected to Undue Restraint S.C. Constitution Article I, Bill of Rights § 3 Privileges and immunities; Due Process; Equal Protection of Laws. The privileges and immunities of citizens of this State and the United States under this Constitution *shall not* be abridged. *Nor shall any person be deprived of Life, Liberty, or property without Due Process of Law, nor shall any person be denied the Equal Protection of the Laws.* The Appellant has been denied this by the actions of the Department of Mental Health and the Attorney Generals Office for allowing this *Injustice* to continue.

The State and the Attorney Generals Office are suppose to protect us from this *Injustice* by Due Process of the Laws.

******On the 24th of July 2013, they had me finally sign the Documents for Annual Examination And Review Hearing that is ten (10) months past the statutory requirement . The Annual Review Pursuant to § 44-48-110 was done on August 16, 2013; eleven (11) months past the statutory requirement .**** As of this date of February 25th 2014, I still have not had my hearing by the Statutory Requirement Pursuant to § 44-48-110. This is approximately nineteen (19) months past the Statutory Requirement Pursuant to § 44-48-110. **** I have not had my 2012 or 2013 Annual Review Hearing, nor, have I had my 2013 Evaluation.******

3. Based on established precedent, under the Rules of Statutory Construction, in interpreting Statutes, the Court looks to the plain meaning of the Statute and the intent of the Legislature. *Gay v. Arial*, 673 S.E. 2d 418 (S.C. 2009); *Edwards v. Sanford*, 678 S.E. 2d 412 (S.C. June 4, 2009). Subtle or force construction to limit or expand a Statute's operation is not allowed. *Converse Power Corp. v. S.C. Dept. of Labor, Licensing, and Regulations*, 523 S.E. 2d 795 (Ct. App. 1999).

4. Violation of the Sexually Violent Predator Statute, S.C. Code of Laws Ann. § 44-48-110: 254 Wis. 2d 690 (Wis. App. 1998). *State ex rel. Marberry v. Macht*. The potential consequences for both parties cannot be labeled insignificant; failure to conduct a reexamination could result in the release of a potentially dangerous mentally disordered person into the community or the continued confinement of a person who no longer presents a danger to society and the prolonged deprivation of his or her liberty. When the failure to act within “*A statutory time limit does work an injury or wrong*,” this Court has construed the time limit as Mandatory. *Karow*, 82 Wis. 2d at 572, 263 N.E. 2d 214. Certainly an individual such as Marberry, who is institutionalized and deprived of his liberty, is injured to a substantial degree.

The general rule in interpreting statutory language is that the word Shall [in this State the Mandatory word “MUST”] is presumed Mandatory when it appears in a statute. *State v. Sprosty*, 227 Wis. 2d 316, 324, 595 N.E. 2d 692 (1999) (citation omitted). “Further support is given to a mandatory interpretation of “*shall*” [“*must*” in S.C.] in a particular statutory section, indicating the legislature was aware of the distinct meaning of the words.”

The Legislature in the State of South Carolina used the word “*must*” in S.C. Code of Laws Ann. § 44-48-110: A person committed pursuant to this chapter *must* have an examination of his mental condition performed *once every year*. The person may retain or, if the person is indigent and so request, the court may appoint a qualified expert to examine the person, and the expert *must* have access to all medical, etc..... The Annual Report *must* be provided to the court which committed the person pursuant to this chapter, the attorney General, etc..... The court *must* conduct an annual hearing to review the status of the committed person. The person is not prohibited from petitioning the court for release at this hearing. The Director of the Department of Mental Health *must* provide the committed person with an annual written notice of the person's right to petition the court for release over the Director's objection; the notice *must* contain a waiver of rights. The Director *must* forward the notice , etc.....

Where statutes provide for performance of acts by public officers protecting private rights or the public in the public interest, they are mandatory. This rule has been enunciated by the United States Supreme Court as follows: “The conclusion to be declared from the authorities is, that where power is given to public officers.... whenever.... individual rights call for its exercise --- the language used... is in fact peremptory.” (citing *Bd. Of Supervisors v. United States ex rel. State Banks*, 71 U.S. (4 Wall) 435, 446-47, 18 L.Ed. 419 (1867).

When our Supreme Court held that S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 to be Constitutional the State promised it was prepared to provide specific treatment to those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 and not to simply warehouse those committed. The State assured our Supreme Court that as the population increased, plans existed to increase the staff proportionately and that a committed person would be discharged as soon as his or her dangerousness or mental disorder abated. As noted, it was presumed good faith on the part of the Legislature; the State is clearly obliged under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 to provide, care and treatment to those determined to be sexually violent persons. South Carolina's Statute § 44-48-110 does contain restrictive procedural time limits and they acknowledge that these time limits may cause administrative difficulties. **HOWEVER**, our Supreme Court accepted the State's affirmation that it was “prepared to provide specific treatment to those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 and not simply warehouse them” and that the Legislature would “proceed in good faith and fund the treatment programs necessary for those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170.”

HOWEVER, the Department of Mental Health through the Sexually Violent Predator Treatment Program took nearly two (2) years to provide Hamm with a reexamination that should have been conducted within one(1) year. Under the extreme state of affairs presented here and the prolonged

deprivation of Hamm's liberty in violation of the strict safeguards of S.C. Code of Laws Ann. § 44-48-110, Hamm's release is the only appropriate remedy.

CONCLUSION: *This Court should conclude that the one-year time limit of S.C. Code of Laws Ann. § 44-48-110 for an initial reexamination is mandatory and because of the egregious circumstances if this case, Hamm's release is necessary. Therefore the order of the Court of Common Pleas should be reversed.*

The Appellant is informed and believes that the statute is to be interpreted to be any accumulation of material possessed --violate the statute and the prescribed requirement in statute in § 44-48-110. Whether that is correct, and whether it is stated in mandatory language, this is the question before this Court? If the Court declares that the Appellant's interpretation is correct, then the question of whether an individual can be subjected to the multiple violations carried out by the Department of Mental Health, The State of South Carolina and The Attorney General's Office.

V. BECAUSE RESPONDENT[S] ARE INCORRECT IN STATING THAT I ALLEGE INEFFECTIVE ASSISTANCE OF COUNSEL. BECAUSE BOTH COUNSEL[S] ARE INEFFECTIVE IN THEIR ASSISTANCE.

S.V.P. Ineffective Assistance of Counsel Claim under the Tenets set forth under *People v. Bailey*, 265 Ill. App. 3d 758 (Ill. App. 3 Dist. 1994); *In re Care and Treatment of Ontiberos*, 287 P. 3d 855 (Kan. 2012)

1. I, charge Mr. George B. Bishop, Jr., my first court appointed counsel with Ineffective Assistance of Counsel and violation of Dr-6-101, as to the Legal Issue of S.C. Code Ann. § 44-48-110 being violated; as mentioned the forgoing-Legal Issues referenced and raised herein. S.C. Const. Art. I, § 3, 12 & 14, U.S.C.A. Const. Amend. 5,6, &14.

In '2010, I was appointed Mr. George B. Bogel, Jr., as counsel. On the 10th day of September 2012, I informed Mr. Bishop that I had not been afforded the Statutory Right to South Carolina Code of Law Ann. § 44-48-110, and responded back to me that since I volunteered for this program that he was no longer my counsel. Then about 10 months later, he wrote that he found out that he was still my counsel. Then he started the process of getting this legal issue started. Then in July of 2013 he dismissed himself as counsel and I was given Mr. Brooks as counsel.

I charge Mr. Bishop with Ineffective Assistance of Counsel and Violating Dr. 6-101 for not filing Motions to have this legal issue brought into court for the State And the Department of Mental Health via the Sexually Violent Predator Unit for Violating the Law. [T]hey are in violation of violating the Statutory Right to South Carolina Code of Law Ann. § 44-48-110. Based on the forgoing Mr. Bishop is guilty of violating the State and Federal Constitutions for effective assistance of counsel. I have had my Constitutional Rights to Due Process and Equal Protection of the Laws under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State. I have been Denied my Statutory Right to the Annual Review Hearing since the 8th of September 2012 through the 5th of February, 2014 under the Statutory Right of South Carolina Code of Law Ann. § 44-48-110.

2. I, charge Mr. Charles T. Brooks, III, my second court appointed counsel with Ineffective Assistance of Counsel and violation of Dr-6-101, as to the Legal Issue of S.C. Code Ann. § 44-48-110 being violated; as mentioned the forgoing-Legal Issues referenced and raised herein. S.C. Const. Art. I, § 3, 12 & 14, U.S.C.A. Const. Amend. 5,6, &14.

I notified Mr. Brooks of "*The State and The Department of Mental Health via The Sexually Violent predator Unit are and have been in Violation of the Statutory Law South Carolina Code of Law Ann. § 44-48-110, since the 8th day of September 2012*, when I first received him as counsel and he did nothing to Prosecute this Legal Issue. [H]e stated to me that I needed to get together with the Resident's in here and file a Class Action Suit on this Legal Issue. Yet, he would do nothing about it, even though [H]e is my counsel. Thus Mr. Brooks is guilty of Ineffective Assistance of Counsel and Violating Dr. 6-101.

As stated in One, I also charge Mr. Brooks, with Ineffective Assistance of Counsel and for Violating Dr. 6-101. On the 18th of January 2014, I talked to Mr. Brooks on the phone and we discussed me Waiving the Annual Review Hearing, and at that time I agreed to this. "Yet," on the 19th of January 2014, I wrote to Mr.. Brooks and Mr. Bogel and stated that I did not want to waive my Annual Review Hearing, and that in the Voluntary Committal Transcript, Judge Dennis stated that I could attend and Mr. Bogel "*agreed.*"

Now on the 4th of February 2014, Mr. Brooks, sends to me this "Consent Order Waiving Annual Review Hearing", after I wrote to [T]hem and stated that I did want my Annual Review Hearing's.

Looking at this "Consent Order Waiving Annual Review Hearing", they are trying to waive all of my hearings since I came to this program. Looking at "Issue One" and at the Statute this is not stated that this can be done thus "*The State and The Department of Mental Health via The Sexually Violent Predator Unit are and have been in Violation of the Statutory Law South Carolina Code of Law Ann. § 44-48-110, since the 8th day of September 2012.*"

I do not agree to waive both of my Annual Review Hearings from September 8th, 2011 through July 13th 2013. I was not told this by Mr. Brooks nor did I see this order before Mr. Brooks signed it, when I told [T]hem that I did not wish to waive my Right's to my Annual Review Hearings.

I charge Mr. Brooks with Ineffective Assistance of Counsel and Violating Dr. 6-10, for not filing Motions to have this legal issue brought into court for the State And the Department of Mental Health via the Sexually Violent Predator Unit for Violating the Law. [T]hey are in violation of violating the Statutory Right to South Carolina Code of Law Ann. § 44-48-110. Based on the forgoing Mr. Brooks is guilty of violating the State and Federal Constitutions for effective assistance of counsel.

I have had my Constitutional Rights to Due Process and Equal Protection of the Laws under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State. I have been Denied my Statutory Right to the Annual Review Hearing since the 8th of September 2012 through the 5th of February, 2014 under the Statutory Right of South Carolina Code of Law Ann. § 44-48-110.

VI. BECAUSE RESPONDENT[S] ARE IN VIOLATION OF THE MANDATORY LAW AS TO CHANGING MY SEPTEMBER 8, YEARLY REVIEW THAT IS MANDATORY LAW PER THE STATUTE FOR THE SEXUALLY VIOLENT PREDATOR PROGRAM AND THE [J]UDGE STATING THIS ISSUE WAS MOOT.

When in the hearing for my Pro-Se Status, the Mandatory Legal Issue as pertaining to the Statutory Right of South Carolina Code of Law Ann. § 44-48-110, was raised as to Ineffective Assistance of Counsel Claim and Violation of my Statutory Right under South Carolina Code of Law Ann. § 44-48-110.

Since the "Consent Order Waiving Annual Review Hearing," was from September 8, 2011 through July 13, 2014, the Judge took it upon [h]erself to change my Statutory Right of South Carolina Code of Law Ann. § 44-48-110, as to the September 8, Mandatory Requirement per Year to July 13, every year.

In doing this---the [J]udge took away my September 2013 Mandatory Annual Review Hearing. Then [s]he stated on the Record of the Court and in the Order Relieving Counsel that my Annual Review Hearings are now July of each year, and stated on *The Record of the Court* that my Legal Issue with S.C. Code Ann. § 44-48-110 is now moot. "*The Violation of The Mandatory Timeline for S.C. Code Ann. § 44-48-110 had already been Violated, Twice by Both Counsel's.*" Thus [s]he has subjected me to "Undue Restraint" since [s]he has denied me my September 8, 2013 Annual Review Hearing, in violation of the Constitution of this State and the Federal Constitution of the United States.

CONCLUSION

For the reasons stated herein, this Court should reverse the judgment of the circuit court as to the issue herein raised. The Appellant, Michael E. Hamm, brings this action for release and is before this Honorable Court to Dismiss the Above -Referenced Case Pursuant to Rule 12 (b)(1) and 41 (b) of the South Carolina Rules of Civil Procedure (SCRCP) and for Other Legal Issues Herein Raised. The reason C/A No.# 2010-CP-08-4436; In the Matter of the Care and Treatment of Michael E. Hamm, should be dismissed for violation of the Statutory Right of South Carolina Code of Law Ann. § 44-48-110, also under the Constitutional Rights Legal Actions under Article I, Section 3, 12 & 14 of the South Carolina Constitution, under U.S.C.A. Const. Amend. 5, 6 & 14 of the United States Constitution, also Dr. 6-101, seeking Declaratory Judgment pursuant to S.C. Code of Law Ann. § § 15-53-10 to 40 (1976 & Supp. 2008), and Rule 57 of the South Carolina Rules of Civil Procedure, against the Respondent[s]; Party Respondent[s], and the State of South Carolina, and ask for attention regarding The Forgoing Legal Issues in "an As-Applied Analysis."

Challenge the Ineffective Assistance of both Counsel as pertaining to S.C. Code Ann. § 44-48-110; with the violation of my Constitutional Right of Access to the Courts and the Right to have a Redress of my Grievances; and my Right not to be Subjected to Undue Restraint; S.C. Const. Art. I § 3 and 9 and U.S.C.A. Const. Amend. 6 and 14. *People v. Lawton*, 212 Ill. 2d 285, 288 Ill. Dec. 6 38, 818 N.E. 2d 326 (2004); *In re Care and Treatment of Ontiberos*, 287 P. 3d 855 (Kan. 2012); *People v. Bailey*, 265 Ill. App. 3d 758 (Ill. App. 3 Dist. 1994); *Cullen v. Pinholder*, ___ U.S. ___, 113 S.Ct. 1388 (2011); *Harrington v. Richter*, ___ U.S. ___, 113 S.Ct. 770 (2011); *State v. Van Cleave*, 239 Kan. 117, 716 P. 2d 580 (Kan. 1986).

1: When appellate counsel in a case arising under the SCSVPA desires to raise an ineffective assistance of counsel issue and that issue has never been ruled upon by the trial court, the respondent may seek a remand of the case to the trial court for an initial determination of the issue. The caveats set out in *State v. Cleave*, 239 Kan. 117, 120-21, 716 P.2d 580 (1986).

2: The SCSVPA is constitutional even though it contains no specific statute allowing a respondent to challenge the effectiveness of counsel.

3: The two-prong ineffective assistance of counsel test established in criminal cases under *Strickland v. Washington*, 466 U.S. 668, 686-89, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984), applies to claims based on deficient performance of counsel in a SCSVPA proceeding.

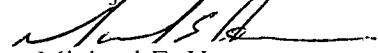
Due to the Loss of Personal Liberty the Act imposes upon individuals adjudged to be sexually dangerous, it should be found that the respondent had a right to the effective assistance of counsel under the sixth amendment to the Constitution of the United States.

It should be noted that the issues that should be considered in this appeal or hearing were not properly preserved for review. [this legal issue was raised on March 18, 2014 in the hearing to relieve counsel and judge Deadra L. Jefferson stated that it was a moot issue] however, because the error was of such magnitude as to deny the respondent a fair trial, it should invoke "*The Plain Error Rule*" in order to preserve justice. See *People v. Speight*, (1992) 153 Ill. 2d 365, 379-80, 180 Ill. Dec. 97, 103,

606 N.E. 2d 1174, 1180; *People v. Dunsworth*, (1992) 233 Ill. App. 3d 258, 269-70, 174 Ill. Dec. 483, 491, 599 N.E. 2d 29, 37. Raise also as under the tenets set forth in *United States v. Cronin*, 466 U.S. 648, 104 S.Ct. 20309, 80 L.Ed. 2d 657 (1984).

July 31, 2014

Respectfully Submitted
Without Prejudice U.C.C. 1-207



Michael E. Hamm
7901 Farrow Road
Bldg. #3/ 3rd. Floor
Columbia, SC 29023-3220
Pro-Se Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No. 2014-CP-08-4436

The State of South Carolina,

Respondent,

v.

Michael E. Hamm,

Appellant.

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

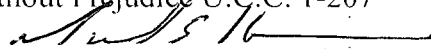
Appellant proposes the following be included in the Record on Appeal:

- 1: Motion to Court for Pro-Se Status and Second Seat Counsel.
- 2: Motion to Dismiss for not having Annual Review Hearing and Record of the court showing that I had no Annual Review.
- 3: Letters to both counsel's and return letters showing that counsel never prosecuted the violation of S.C. Code § 44-48-110.
- 4: Motion to Waive Annual Review Hearing
- 5: Transcript of proceedings pp. (cannot afford and takes 60 days to receive and the time line to file is 30 day.)

I certify that this designation contains no matter which is irrelevant to this appeal.

July , 2014

Without Prejudice U.C.C. 1-207



Michael E. Hamm

7901 Farrow Road
Bldg. #3/ 3rd Floor
Columbia, SC 29203-3220
Pro-Se Appellant

EXHIBIT ONE

Michael E. Hamm
7901 Farrow Road
Bldg. #3 // 3rd Floor
Columbia SC 29203-3220

May 6th 2014

VB
2014 MAY 9 PM 2:36
FILED
MARY P. BROWN
CLERK OF COURT S.C.
BERKELEY COUNTY

ATTENTION PLEASE

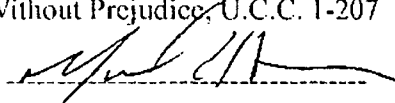
To: The Honorable Mary P. Brown, Clerk of Court's;
The Honorable Chief Administrative Judge for
the Ninth Judicial Circuit, Berkeley County.
Post Office Box 219
Moncks Corner, SC 29461-0219

Re: Pro-Se Status.

On the 18th of March 2014, in the Court of Common Pleas--- Berkeley County---in front of The Honorable Deadra L. Jefferson; a hearing was held for me to be granted Pro-Se Status. As of this date I have not received for this Court/ Clerk of Court or the Attorney General's Office the Document's that show that I am Pro-Se. I need the enclosed motion entered into this Court----- as to I cannot afford anymore delays by the Attorney General's Office on the Order Granting me Pro-Se Status.

On this 6th day of May, 2014

Respectfully Submitted
Without Prejudice, U.C.C. 1-207



STATE OF SOUTH CAROLINA |
COUNTY OF BERKELEY |
STATE OF SOUTH CAROLINA |
DEPARTMENT OF MENTAL HEALTH VIA |
S.V.P.T.P.; |
PLAINTIFF |
and PARTY-PLAINTIFF'S |
V. |
MICHAEL E. HAMM |
RESPONDENT |

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

MOTION TO PROCEED 'PRO-SE'
WITH SECOND SEAT COUNSEL

C/A NO. 2010- CP- 08- 4436

The Respondent above-named, hereby Motions this Honorable Court to grant the above referenced case.

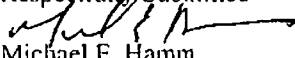
The respondent above-named is seeking to proceed Pro-Se with the appointment of Second Seat Counsel under *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed. 2d 562. Also seeking appoint of Second Seat Counsel under *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed. 2D 122 (1984); Such Precedent Controls and the Courts are bound to follow it. *Hynes v. Tomei*, 92 n.y, 2d 613, 629, 684 N.Y S. 2d 177, 706 N.E. 2d 1201 (1998) (**State Courts are Bound under the Federal Constitution to follow Controlling Supreme Court Precedent**), cert. denied, 527 U.S. 1015, 119 S.Ct. 2359, 14 l. l.Ed 2nd 254 (1999); *People v. Cortes*, 80 N.Y.S. 2d 201,211, 590 N.Y.S. 2d 9, 604 N.E. 2d 71 (1992) (Trial court bound to follow Existing Precedent).

PRAYER

The Respondent prays that this court will decide, and declare, whether the respondent is to be granted the above referenced case.

Cc:// Clerk of Court, Berkeley County
Post Office Box 219
Moncks Corner, S.C. 29461-0219;
File.

FILED
2011 FEB - 9 PM 12: 55
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

Respectfully Submitted

Michael E. Hamm
7901 Farrow Road,
Bldg #3/ 3rd floor
Columbia S.C. 29203

MEH

du/s

Sent to:

Name : Holly Scaturo, Rn. Msn., **Position:** Director , S.V.P.T.P.

Address: 7901 Farrow Road, Bldg #3/ 3rd floor Columbia S.C. 29203

Additional : John McGill **Position:** Director , Dept. Of Mental Health

Address: 2414 Bull Street, Columbia S.C.29203

Additional : James B. Bogel, Jr., **Position:** Assistant Attorney General

Address: ~~Post Office Box 11549, Columbia S.C. 29211-1549~~

In The Court of Common Pleas

The State of South Carolina-----Plaintiff
The Department of Mental Health via The Sexually Violent Predator Unit
Party Plaintiff's

vs.

Michael E. Hamm--- Respondent

C/A/No. 2010-Cp-08-4436

AFFIDAVIT OF SERVICE

I, Michael E. Hamm, do Swear or Declare that on this date, 29th^h day of January 2014, I have served the enclosed on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States Mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within three (3) calendar days.

The names of those served are as follows:

Clerk of Court, The Court of Common Pleas
Berkeley County
Post Office Box 219
Moncks Corner, S.C. 29461-0219

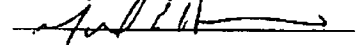
Holly Scaturo, Rn. Msn., Director , S.V.P.T.P.
7901 Farrow Road, Bldg #3/ 3rd Floor
Floor Columbia S.C. 29203-3220

Office of the Attorney General
c/o Mr. Bogel, Jr.,
Post Office Box 11549
Columbia, S.C. 29211-1549

John McGill Director , Dept. Of Mental Health
2414 Bull Street, Columbia S.C.29203

James B. Bogel, Jr., Assistant attorney General
Post Office Box 11549 ,
Columbia, S.C. 29211-1549

Respectfully Submitted



Without Prejudice U.C.C. 1-207

Michael E. Hamm
7901 Farrow Road
Bldg. #3/ 3Floor
Columbia, S.C. 29203-3220

cc:// Clerk of Court, Berkeley County;
Office of the Attorney General;
File.

FILED
2014 FEB -4 PM 12:55
MARY P. BROV/N
CLERK OF COURT
BERKELEY COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)
)
 In the Matter of the Care and Treatment)
 of:)
)
 MICHAEL HAMM,)
)
 Respondent)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2010-CP-08-4436

ORDER RELIEVING COUNSEL

Presiding Judge:
 Attorney for the State:
 Respondent's Attorney:
 Date of Hearing:
 Court Reporter:

Hon. Deadra L. Jefferson
 James Bogle, Esq.
 Charles T. Brooks, Esq.
 March 18, 2014
 Karen V. Andersen

2014 MAY -9 PM 1:38
 COURT REPORTER
 CLERK OF COURT
 BERKELEY COUNTY, SC
 FILED

This matter came before the Court during the March 18, 2014 common pleas non-jury term for a hearing on Respondent's Motion to Proceed *Pro Se* with Second Seat Counsel, filed February 4, 2014. Department of Mental Health transported Respondent for the hearing on March 18, 2014. Respondent's Attorney and Attorney for the State participated in the hearing via telephone conference without objection.

The South Carolina Constitution provides no right to hybrid representation. State v. Stuckey, 333 S.C. 56, 57-58, 508 S.E.2d 564 (1998). See Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525 (1975) (citing McKaskle v. Wiggins, 465 U.S. 168, 183, 104 S. Ct. 944, 953 (1984)); Jones v. State, 348 S.C. 13, 13, 558 S.E.2d 517, 517 (2002). "A trial judge is not required to permit hybrid representation, i.e. representation partially *pro se* and partially by counsel." State v. Reed, 332 S.C. 35, 43, 503 S.E.2d 747, 751 (1998). See Richardson v. State, 377 S.C. 103, 659 S.E.2d 493 (2008) (While an applicant seeking postconviction relief, related civil action, may have the right to reject or discharge court-appointed counsel and proceed *pro se* or retain his own counsel, he does not have the right, without a showing of satisfactory cause, to refuse or

10/3
 [Signature]

dismiss the counsel appointed and have other counsel appointed). Therefore, Respondent's Motion to Proceed Pro Se with Second Seat Counsel is hereby denied.

At the hearing, Respondent argued he was denied an annual review as required under S.C. CODE ANN. § 44-48-110 (2013) and, therefore, alleged ineffective assistance of counsel. Respondent was voluntarily committed on September 8, 2011. While committed, he received his first hearing. Thereafter, Respondent's prior counsel filed a motion to compel the South Carolina Department of Mental Health to perform Respondent's annual review on July 13, 2013. Subsequently, Respondent's doctor evaluated Respondent on September 17, 2013. On January 16, 2014, Respondent advised his attorney that he wished to waive his annual review. Based on the South Carolina Department of Mental Health's pro rated scheduling system, Respondent's annual review is currently scheduled for July, 2014. After a hearing on the matter, Respondent informed the Court that he wished to proceed *pro se*.

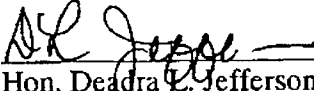
"It is well-established that a defendant may waive the right to counsel and proceed *pro se*." Dearybury v. State, 367 S.C. 34, 39; 625 S.E.2d 212, 215 (2006) (citing Faretta, 422 U.S. at 834, 95 S.Ct. at 2525). "Although a defendant's decision to proceed *pro se* may be to the defendant's own detriment, it "must be honored out of that respect for the individual which is the lifeblood of the law." Id. (citing Faretta, 422 U.S. at 834, 95 S.Ct. 2525). "The trial judge has the responsibility to ensure that the accused is informed of the dangers and disadvantages of self-representation, and makes a knowing and intelligent waiver of the right to counsel." Id.

The Court advised Respondent against self-representation, but Respondent insisted. The Court inquired further and the Respondent indicated that he knew how to represent himself and voluntarily waived his right to appointed counsel and all future appointed counsel. Thus, this Court finds that Respondent knowingly, intelligently, and voluntarily waived his right to counsel.

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[Signature]

THEREFORE, IT IS ORDERED:

That Charles T. Brooks, III be relieved of any further services for the Respondent and that the Respondent will proceed with this matter *pro se*. Further, the Respondent understands that he will not be appointed another counselor and that if he wishes to obtain counsel, he must retain a private attorney. It is so ordered.



Hon. Deadra L. Jefferson
Presiding Judge, Ninth Judicial Circuit

May 2, 2014
Charleston, South Carolina
At Chambers


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EXHIBIT TWO

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

IN RE THE MATTER OF THE CARE
AND TREATMENT OF:
MICHAEL E. HAMM
RESPONDENT
V.
THE STATE OF SOUTH CAROLINA
DEFENDANT
and PARTY DEFENDANT'S

MOTION TO DISMISS

C/A No.: 2010- CP-084436

SB
FILED
2014 MAY -9 PM 2:38
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

Attention: The Honorable Chief Administrative Judge Ninth Judicial Circuit, Court Of
Common Pleas, and The Honorable Mary P. Brown; Clerk of Court, Berkeley County.

Issue One

Statement of the Case

I, have not had any Annual Review Hearing since I came into this program in September 8th 2011.
Is this not Mandatory as a Matter of Law?

Argument

The Defendant hereby objects to the State's Motion to *"Consent Order Waiving Annual Review Hearing is an Injustice."* The State and my Counsel Mr. Charles T. Brooks III, Esquire, are trying to have waived The Annual Review Hearing for 21 months, not. just the 2012 hearing. I contacted Mr. Brooks by mail on/ or about the 19th of February 2014 that I did not want to consent to this. By the Letter of the Law according to South Carolina Code Ann. § 44-48-110. this is *"must be"* done every year and I have had none based on the forgoing. 1, *"Object to this Consent Order Waiving Annual Review Hearing."*

When a Waiveable Right or claim is involved, the failure to make a reservation thereof; causes a loss of the right and bars it's assertion at a later date..... U.C.C. 1-103:6 Common Law, a statute should be construed in harmony with the common law ,unless there is clear legislative intent to abrogate the common law. "The Code Cannot be Read to Preclude a Common Law Action."

Issue Two

Statement of the Case

The Department of Mental Health and State that runs this program are Violating my Constitutional Rights, due to [T]hem not following the Mandatory Requirement in § 44-48-110 raised in an "As-Applied Analysis." [T]hey are Violating my Due Process, and Equal Protection Rights of the State and Federal Constitution under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State. This is raised as a Novel ~~question of Law~~ ~~as A Certified Question of Law~~ in an "As-Applied Analysis"

Argument

The potential consequences for both parties cannot be labeled insignificant; failure to conduct a reexamination could result in the release of a potentially dangerous mentally disordered person into the community, or, "*The continued confinement of a person who no longer presents a danger to society and the prolonged deprivation of his / her liberty.*" So can the State and the Department of Mental Health continue to Violate South Carolina Code of Law Ann. § 44-48-110?

1. South Carolina Code of Law Ann. § 44-48-110 states: **Periodic mental examination of committed persons; report; petition for release; trial to consider release.** A person committed pursuant to this chapter *must* have an examination of his mental condition performed *once every year*. The person may retain or, if the person is indigent and so request, the court may appoint a qualified expert to examine the person, and the expert *must* have access to all medical, etc..... The Annual Report *must* be provided to the court which committed the person pursuant to this chapter, the Attorney General, etc..... The court *must* conduct an annual hearing to review the status of the committed person. The person is not prohibited from petitioning the court for release at this hearing. The Director of the Department of Mental Health *must* provide the committed person with an annual written notice of the person's right to petition the court for release over the Director's objection; the notice *must* contain a waiver of rights. The Director *must* forward the notice and waiver to the court with the annual report. Etc.....

2. All the evidence that will be presented will show that this "*was not*" complied with in accordance with the South Carolina Code of Law Ann. § 44-48-110 states: **Periodic mental examination of committed persons; report; petition for release; trial to consider release.** The

Defendant's Constitutional Right's to Equal Protection of the Laws has been violated by the Plaintiffs, and his Constitutional Right's not to be subjected to Undue Restraint S.C. Constitution Article I, Bill of Rights § 3 Privileges and immunities; Due Process; Equal Protection of Laws. The privileges and immunities of citizens of this State and the United States under this Constitution *shall not* be abridged. *Nor shall* any person be deprived of *life, liberty*, or property *without due process of law, nor shall any person be denied the equal protection of the laws.* The Defendant has been denied this by the actions of the Department of Mental Health and the Attorney Generals Office for allowing this *Injustice* to continue. The State and the Attorney Generals Office are suppose to protect us from this *Injustice* by Due Process of the Laws.

****On the 24th of July 2013, they had me finally sign the Documents for *Annual Examination And Review Hearing* that is ten (10) months past the statutory requirement. *The Annual Review Pursuant to § 44-48-110 has not been done as of August 16, 2013; eleven (11) months past the statutory requirement, Of September 8th 2012**** As of this date of May 6th 2014, I still have not had my hearing by the Statutory Requirement Pursuant to § 44-48-110. This is twenty-one (21) months past the Statutory Requirement Pursuant to § 44-48-110. **** In re Commitment of Beyer, 707 N.W. 2d 509 (Wis. 2006)*

3. Based on established precedent, under the Rules of Statutory Construction, in interpreting Statutes, the Court looks to the plain meaning of the Statute and the intent of the Legislature. *Gay v. Arial*, 673 S.E. 2nd 418 (S.C. 2009); *Edwards v. Sanford*, 678 S.E. 2nd 412 (S.C. June 4, 2009). Subtle or force construction to limit or expand a Statute's operation is not allowed. *Converse Power Corp. v. S.C. Dept. of Labor, Licensing, and Regulations*, 523 S.E. 2nd 795 (Ct. App. 1999).

4. Violation of the Sexually Violent Predator Statute, S.C. Code of Laws Ann. § 44-48-110: See the following case as a reference: 254 Wis. 2d 690 (Wis. App. 1998). *State ex rel. Marberry v. Macht*. The potential consequences for both parties cannot be labeled insignificant; failure to conduct a reexamination could result in the release of a potentially dangerous mentally disordered person into the community or "The Continued Confinement of a Person Who No Longer Presents a Danger to Society and The Prolonged Deprivation of [H]is or her Liberty. When the failure to act within "A *Statutory Time Limit Does Work an Injury or Wrong*," this Court has construed the time limit as Mandatory. *Karow*, 82 Wis. 2d at 572, 263 N.E. 2d 214. Certainly an individual such as Hamm, who is institutionalized and deprived of his liberty, is injured to a substantial degree.

The general rule in interpreting statutory language is that the word shall [in this State the Mandatory word "Must"] is presumed Mandatory when it appears in a statute. *State v. Sprosty*, 227 Wis. 2d 316, 324, 595 N.E. 2d 692 (1999) (citation omitted). "Further support is given to a mandatory interpretation of "shall" ["must" in S.C.] in a particular statutory section, indicating the legislature was aware of the distinct meaning of the words."

~~The Legislature in the State of South Carolina used the word "must" in S.C. Code of Laws Ann. § 44-48-110: A person committed pursuant to this chapter *must* have an examination of his mental condition performed *once every year*. The person may retain or, if the person is indigent and so request, the court may appoint a qualified expert to examine the person, and the expert *must* have access to all medical, etc..... The Annual Report *must* be provided to the court which committed the person pursuant to this chapter, the attorney General, etc..... The court *must* conduct an annual hearing to review the status of the committed person. The person is not prohibited from petitioning the court for release at this hearing. The Director of the Department of Mental Health *must* provide the committed person with an annual written notice of the person's right to petition the court for release over the Director's objection: the notice *must* contain a waiver of rights. The Director *must* forward the notice , etc.....~~

****Where statutes provide for performance of acts by public officers protecting private rights or the public in the public interest, they are mandatory. This rule has been enunciated by the United States Supreme Court as follows: "The conclusion to be declared from the authorities is, that where power is given to public officers.... whenever.... individual rights call for its exercise --- the language used... is in fact peremptory." (citing *Bd. Of Supervisors v. United States ex rel. State Banks*, 71 U.S. (4 Wall) 435, 446-47, 18 L.Ed. 419 (1867)). ****

When our Supreme Court held that S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 to be Constitutional the State promised it was prepared to provide specific treatment to those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 and not to simply warehouse those committed. The State assured our Supreme Court that as the population increased, plans existed to increase the staff proportionately and that a committed person would be discharged as soon as his or her dangerousness or mental disorder abated. As noted, it was presumed good faith on the part of the Legislature; the State is clearly obliged under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 to provide care and treatment to those determined to be sexually violent persons. South Carolina's Statute

§ 44-48-110 does contain restrictive procedural time limits and they acknowledge that these time limits may cause administrative difficulties.

HOWEVER, our Supreme Court accepted the State's affirmation that it was "prepared to provide specific treatment to those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 and not simply warehouse them" and that the Legislature would "proceed in good faith and fund the treatment programs necessary for those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170."

HOWEVER, the Department of Mental Health through the Sexually Violent Predator Treatment Program took nearly two (2) years to provide Defendant with a reexamination that should have been conducted within one(1) year. Under the extreme state of affairs presented here and the prolonged Deprivation of Defendant's Liberty in Violation of the Strict Safeguards of S.C. Code of Laws Ann. § 44-48-110. Defendant's release is the only appropriate remedy.

CONCLUSION: *"This Court should conclude that the one-year time limit of S.C. Code of Laws Ann. § 44-48-110 for an initial reexamination is mandatory and because of the egregious circumstances if this case, Plaintiff's release is necessary. Therefore the order of the Court of Common Pleas should be reversed."*

The Defendant is informed and believes that the statute is to be interpreted to be any accumulation of material possessed violate the statute and the prescribed requirement in statute in § 44-48-110. Whether that is correct, and whether it is stated in mandatory language, this is the question before this Court? If the Court declares that the Plaintiff's interpretation is correct, then the question of whether an individual can be subjected to the multiple violations carried out by the Department of Mental Health, The State of South Carolina and The Attorney General's Office.

Issue Three

Statement of the Case

Are and were Counsel's Ineffective in their Assistance and in Violation of DR-6-101 for not raising the Legal Issue's as stated in the Motion to Dismiss?

Argument

In 2010, I was appointed Mr. George B. Bogel, Jr., as counsel. On the 10th day of September 2012.

I informed Mr. Bishop that I had not been afforded the Statutory Right to South Carolina Code of Law Ann. § 44-48-110, and responded back to me that since I volunteered for this program that he was no longer my counsel. Then about 10 months later, he wrote that he found out that he was still my counsel. Then he started the process of getting this legal issue started. Then in July of 2013 he dismissed himself as counsel and I was given Mr. Brooks as counsel.

~~I charge Mr. Bishop with Ineffective Assistance of Counsel and Violating Dr. 6-101 for not filing~~ Motions to have this legal issue brought into court for the State And the Department of Mental Health via the Sexually Violent Predator Unit for Violating the Law. [T]hey are in violation of violating the Statutory Right to South Carolina Code of Law Ann. § 44-48-110. Based on the forgoing Mr. Bishop is guilty of violating the State and Federal Constitutions for effective assistance of counsel. I have had my Constitutional Rights to Due Process and Equal Protection of the Laws under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State. I have been Denied my Statutory Right to the Annual Review Hearing since the 8th of September 2012 through the 5th of February, 2014 under the Statutory Right of South Carolina Code of Law Ann. § 44-48-110.

Issue Four

Statement of the Case

Are and were Counsel's Ineffective their Assistance and in Violation of DR-6-101 for not raising the Legal Issue's as stated in the Motion to Dismiss?

Argument

I notified Mr. Brooks of: *"The State and The Department of Mental Health via The Sexually Violent predator Unit are and have been in Violation of the Statutory Law South Carolina Code of Law Ann. § 44-48-110, since the 8th day of September 2012, when I first received him as counsel and he did nothing to Prosecute this Legal Issue. [H]e stated to me that I needed to get together with the Resident's in here and file a Class Action Suit on this Legal Issue. Yet, he would do nothing about it, even though [H]e is my counsel. Thus Mr. Brooks is guilty of Ineffective Assistance of Counsel and Violating Dr. 6-101.*

~~As stated in Issue Two I also charge Mr. Brooks, with Ineffective Assistance of Counsel and For Violating Dr. 6-101. On the 18th of January 2014 I talked to Mr. Brooks on the phone and we discussed~~

me Waiving the Annual Review Hearing, and at that time I agreed to this. "Yet," on the 19th of January 2014, I wrote to Mr. Brooks and Mr. Bogel and stated that I did not want to waive my Annual Review Hearing, and that in the Voluntary Committal Transcript, Judge Dennis stated that I could attend and Mr. Bogel "agreed."

Now on the 4th of February 2014, Mr. Brooks sends to me this "Consent Order Waiving Annual Review Hearing", after I wrote to [T]hem and stated that I did want my Annual Review Hearing's.

Looking at this "Consent Order Waiving Annual Review Hearing", they are trying to waive all of my hearings since I came to this program. Looking at "Issue One" and at the Statute this is not stated that this can be done thus "*The State and The Department of Mental Health via The Sexually Violent predator Unit are and have been in Violation of the Statutory Law South Carolina Code of Law Ann. § 44-48-110, since the 8th day of September 2012.*"

I do not agree to waive both of my Annual Review Hearings from September 8th, 2011 through July 13th, 2013. I was not told this by Mr. Brooks nor did I see this order before Mr. Brooks signed it, when I told [T]hem that I did not wish to waive my Right's to my Annual Review Hearings.

I charge Mr. Brooks with Ineffective Assistance of Counsel and Violating Dr. 6-10, for not filing Motions to have this Legal Issue brought into Court for the State And the Department of Mental Health via the Sexually Violent Predator Unit for Violating the Law. [T]hey are in violation of violating the Statutory Right to South Carolina Code of Law Ann. § 44-48-110. Based on the forgoing Mr. Brooks is guilty of violating the State and Federal Constitutions for effective assistance of counsel.

I have had my Constitutional Rights to Due Process and Equal Protection of the Laws under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State. I have been Denied my Statutory Right to the Annual Review Hearing since the 8th of September 2012 through the 6th of May, 2014 under the Statutory Right of South Carolina Code of Law Ann. § 44-48-110.

Issue five

I do not agree to Waive both of my Annual Review Hearings from September 8th, 2011 through July 13th, 2013. I was not told this by Mr. Brooks nor did I see this order before Mr. Brooks signed it, when I told [T]hem that I did not wish to waive my Right's to my Annual Review Hearings.

I have had my Constitutional Rights to Due Process and Equal Protection of the Laws under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel's and the

State. I have been denied my Statutory Right to the Annual Review Hearing since the 8th of September 2012 through the 5th of February, 2014. under the Statutory Right of South Carolina Code of Law Ann. § 44-48-110.

PRAYER


I PRAY, that this Court will Grant this Motion to Dismiss the “**Voluntary Committal Order**” and grant me the relief that I seek. If so, a justifiable controversy exists, needing further analysis if a Statutory Violation occurred and administration of the Appropriate Relief pursuant to S.C. Code of Law Ann. § § 15-53-10 to 140.

Wherefore, based upon all of the forgoing, the Defendant moves this Honorable Court for an Order of Declaratory Judgment to answer the questions posed. The Defendant then asks for Prospective Relief and Injunction to correct the unlawful restraint of this Defendants Constitutional Rights and Protected Liberty Interest to the Privileges and Immunities of citizens of this State and the United States under this Constitution *shall not* be abridged. *Nor shall* any person be deprived of *Life, Liberty*, or property *Without Due Process of Law, nor Shall any Person be Denied the Equal Protection of the Laws*. The Defendant, *Has Been Denied* this by the actions of the Attorney Generals Office, The Department of Mental Health and The State of South Carolina for allowing this *Injustice* to continue. The State, The Attorney Generals Office and The Department of Mental Health are suppose to protect us from this *Injustice* by Due Process of the Laws.

This The Defendant Humbly Prays

On this 6th Day of May, 2014, It Is So Moved.

Without Prejudice U.C.C. 1-207


Michael E. Hamm
7901 Farrow Road
Bldg.#3 / 3rd Floor
Columbia, South Carolina
29203-3220

cc:/ The Honorable Mary P. Brown; Clerk of Court &
Chief Administrative Judge Ninth Judicial Circuit,
Court Of Common Pleas.
Post Office Box 219
Moneks-Corner, SC 29461-0219

Sent to: The Attorney Generals Officers
Post Office Box 11549
Columbia, South Carolina 29211-1549

In The Court of Common Pleas

In the Matter of the Care and Treatment of
Michael E. Hamm

Defendant

vs.

The State of South Carolina

Respondent

and Party Respondent's

FILED
2014 MAY -9 PM 2:36
MAY 9 2014
CLERK OF COURT
BERKELEY COUNTY, S.C.
VB

C/A/No. 2010-CP-08-4436

AFFIDAVIT OF SERVICE

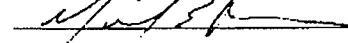
I, Michael E. Hamm, do Swear or Declare that on this date, 6th day of May 2014, I have served the enclosed on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States Mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within three (3) calendar days.

The names of those served are as follows:

Clerk of Court, The Court of Common Pleas
Berkeley County
Post Office Box 219
Moncks Corner, S.C. 29461-0219

Office of the Attorney General
c/o Mr. Bogel, Jr.,
Post Office Box 11549
Columbia, S.C. 29211-1549

Respectfully Submitted
Without Prejudice U.C.C. 1-207



Michael E. Hamm
7901 Farrow Road
Bldg. #3/ 3rd floor
Columbia, S.C. 29203-3220

cc:// Clerk of Court, Berkeley County;
Office of the Attorney General;
File.

EXHIBIT THREE

MICHAEL E. HAMM
7901 FARROW ROAD
BLDG. #3// 3RD. FLOOR
COLUMBIA, S.C. 29203

SEPTEMBER 5, 2012

GEORGE B. BISHOP, JR., P.A.
ATTORNEY AT LAW
~~223 W. MAIN STREET, P.O. BOX 848~~
MONCK'S CORNER, S.C. 29461

RE: COURT

MR. BISHOP,

I AM WRITING TO CHECK TO SEE IF YOU ARE STILL MY ATTORNEY?

I AM GETTING INFORMATION TOGETHER TO GO BACK TO COURT. I HAVE BEEN GATHERING INFORMATION TO USE AGAINST THEM, SO THAT I CAN TRY TO GET OUT OF THIS NIGHTMARE. SEPTEMBER THE EIGHTH WILL BE ONE (1) YEAR SINCE I CAME TO THIS PLACE. ACCORDING TO THE JUDGE I CAN NOW GO TO TRIAL, SO, LET ME KNOW WHAT YOU THINK, PLEASE.

I AM NOT TRYING TO DO YOUR JOB-- BUT-- I HAVE HAD PLENTY OF TIME TO STUDY IN HERE, AND SEND FOR A LOT OF CASE LAWS. I CAN'T FILE THEM BECAUSE YOU ARE MY ATTORNEY, SO PLEASE LOOK AT WHAT I SEND YOU VERY CAREFULLY , PLEASE.

HAVE YOU BEEN STUDYING TO SEE IF WE CAN BEAT THESE PEOPLE IN COURT. I MADE A LOT OF MISTAKES IN MY LIFE -YET- I HAVE DONE MY TIME FOR THESE OFFENSES. I KNOW THAT I DID WRONG AND CAN NEVER UNDO WHAT I HAVE DONE-- JUST DON'T KEEP PUNISHING ME FOR THE SAME OFFENSES ALL OVER AGAIN.

THE FOLLOWING NEEDS TO BE PUT INTO A MOTION, TO USE IN COURT. IF IT IS NOT USED THEN I CANNOT USE IT ON APPEAL, IF SOMETHING GOES WRONG IN COURT.

I AM BEING SUBJECTED TO CONDITIONS WORSE THAN PRISON, AND BEING TREATED DIFFERENT THAN THE SAME PEOPLE WHO ARE PART OF THIS PROGRAM WHO ARE AT GEO-CARE , WHICH IS DISCRIMINATION, BASED UPON THE FOLLOWING THIS IS RAISED UNDER SELING V. YOUNG 531 U.S. 250, 121 S.C.T. 727, 148 L.ED. 734 (2001). IN ORDER TO RAISE ISSUE OF CRIMINAL PUNISHMENT, AND ALSO AM RAISING A DISCRIMINATION LEGAL ISSUE.

1) THERE IS NO POWER IN THE ROOMS FOR ANY KIND OF AN APPLIANCE OR CABLE TO HOOK-UP FOR A TELEVISION, IF IT HAD POWER? [[YET PRISON'S HAVE POWER IN THE ROOMS, ALONG WITH CABLE HOOK-UP]] NOW THE PEOPLE AT GEO-CARE THEY HAVE TELEVISIONS IN THEIR ROOMS ALONG WITH A TELEVISION IN THE DAY ROOMS, THE SAME GOES FOR SCDC INMATES. THIS IS DISCRIMINATION TO TREAT THEM DIFFERENT THAN US. [~~AT GEO-CARE, A THREE-MAN ROOM HAS ONE (1) TELEVISION AND FOUR MAN ROOM HAS TWO (2) TELEVISIONS~~]. PER THE WARDEN WE CAN NOT HAVE OR PURCHASE A TELEVISION.

2) WE ARE SERVED THE SAME FOOD AS THE PRISON INMATES. THE STATE STATES THAT IT COST THEM \$1.17 PER MEAL TO PREPARE, YET, THEY [S.V.P. AND D.M.H.] ARE CHARGING THE RESIDENTS HERE \$ 5. 00 PER MEAL. NOW IF YOU GO TO GEO-CARE YOU ARE SERVED THE SAME FOOD AS THE REGULAR PATIENT'S IN GEO-CARE. THIS IS DISCRIMINATION TO THE PEOPLE HERE IN THE TREATMENT PROGRAM , AND SINCE YOU CAN NOT TREAT US DIFFERENTLY FROM THEM. THE RESIDENTS WHO GO TO CRAFT-FARROW ARE GIVEN FOR LUNCH THE SAME FOOD AS GEO-CARE, YET WE ARE SERVED STATE FOOD, AGAIN DISCRIMINATION.

3) WE ARE GIVEN THE SAME CLOTHES TO WEAR AS THE STATE INMATES. THE STATE MAKES OUR CLOTHING FOR US TO WEAR, SINCE THEY HAVE A CONTRACT WITH D.M.H.. WE SHOULD BE ALLOWED TO HAVE CLOTHES LIKE REGULAR STREET PEOPLE WITH THE SAME AMOUNT OF POCKETS. [WE HAVE ONLY A BACK POCKET ON OUR PANT'S AND PULL OVER SHIRTS WITH NO BUTTONS]

4) WE ARE LOCKED IN OUR ROOMS AT NIGHT THE SAME AS INMATES, PERSONS AT GEO CARE THEY ARE NOT LOCKED IN THEIR ROOMS. WE HAD THE STATE CREATED RIGHT PREVIOUSLY IN 2008 WE WERE NOT LOCKED IN OUR ROOMS AT NIGHT, THIS IS DISCRIMINATION.

5) ANYTHING WE WANT TO ORDER AS THE INMATES CAN RECEIVE, WE HAVE TO GET THE WARDEN'S PERMISSION. WE HAVE NO POWER IN THE ROOMS, SO, WE WANTED TO ORDER BATTERY POWERED TELEVISION'S AND LIGHTS FOR THE ROOMS. THE WARDEN SAID NO, YET, INMATES CAN HAVE TELEVISION'S AND LIGHTS , THAT THEY CAN ORDER OFF THE CANTEEN, WE CAN'T SINCE THERE IS NO POWER IN THE ROOMS, THIS IS DISCRIMINATION

6) SCDC INMATES CAN PURCHASE FOOD PACKAGES TWO TIMES PER YEAR WHERE THEY CAN PURCHASE CHILI, ROAST BEEF ETC, UNDER THE POLICY OF SCDMHI WE WERE ALLOWED TO PURCHASE PACKAGES FOUR TIMES WHICH THE STATE CREATED INTEREST, NOW THE SVPTP STAFF TOOK IT UPON THEMSELVES TO LIMIT US TO TWICE A YEAR,, AND HAVE RESTRICTED OUR RIGHT TO HAVE OUR FAMILY TO PURCHASE FOOD OR OTHER GIFTS ONCE A YEAR, AND RESTRICTED US TO VENDERS WHO CHARGE HIGH PRICES WHICH IS A HARDSHIP ON US. WHERE I WAS RESTRICTED TO TWICE A YEAR ANY OTHER TIME WE CAN ONLY PURCHASE DRY GOODS AND COFFEE AND TEA. TO DENY ME THE SAME PRIVILEGES AS INMATES, THIS IS DISCRIMINATION, FOR A CIVILLY COMMITTED PERSON.

7) WE ARE IN A DOG KENNEL ENVIRONMENT, DUE TO THE FACT THAT AS SOON AS WE LOOK OUT OUR DOORS WE SEE CYCLONE FENCING [THE SAME TYPE OF FENCING AS IN SOMEONES YARD] THEN ALL DAY LONG, ALL YOU SEE IS THIS CYCLONE FENCING AS YOU ARE ON THE ROCK [WHAT THEY CALL THE MILIEU]. THEN IF YOU GO TO THE 100 FOOT X 50 FOOT REC. FIELD, ALL YOU SEE AROUND IS CYCLONE FENCING [ONLY THIS TIME IT IS DOUBLE FENCING]. WE AT NO TIME CAN COME IN CONTACT WITH ANY GRASS OR DIRT. THE REC FIELD IS ASPHALT, NO GRASS OR DIRT AT ALL, THIS IS DISCRIMINATION WHEN S.C.D.C AT MOST YARDS HAVE DIRT AND GRASS REC. FIELDS. WHEN S.C.D.C. CLOSES THEIR YARD WE HAVE TO CLOSE OUR REC. FIELD ALSO-YET- WE ARE NOT S.C.D.C. AND HAVE OUR OWN SECURITY STAFF TO WATCH OVER US.

8) THE TREATMENT CONTRACT THAT THEY HAVE YOU SIGN WHEN YOU COME HERE, THIS IS A PUNITIVE CONTRACT AND, IF YOU DO NOT SIGN YOU ARE KEEP ON RED LEVEL. YOU HAVE TO BE IN YOUR ROOM EVERY NIGHT DURING THE WEEK AT 9:00

P.M. AND ON THE WEEKENDS AT 10:00 P.M.. ON RED LEVEL YOU ARE LIMITED TO ONLY \$20:00 DOLLARS A WEEK ON CANTEEN -YET- ON GREEN LEVEL \$60:00 DOLLARS ON FOOD ITEMS AND \$ 15:00 ON TOILETRIES. ON RED LEVEL YOU CANNOT PARTICIPATE IN ANY COOKOUT'S OR ACTIVITIES.. THERE ARE CERTAIN ISSUES IN THE CONTRACT THAT THEY ARE NOT EVEN FULFILLING THE CONTRACT, AND THEY SAY THAT IT IS DUE TO THE BUDGET. YOU CANNOT HAVE US SIGN A CONTRACT THEN NOT FULFILL THE CONTRACT BY CONTRACTUAL LAW.

9) I AM FORCED TO WEAR A BRIGHT YELLOW JUMP SUIT WITH EIGHT INCH (8') PRINTING ON THE BACK THAT STATES *** SVPTP*** WHEN EVER I GO OUT IN PUBLIC, ~~THIS IS DEGRADING HUMILIATING, AND AMOUNTS TO CRUEL AND UNUSUAL PUNISHMENT, AND AMOUNTS TO DISCRIMINATION INTENDED TO SINGLE OUT A CIVILLY COMMITTED PERSON WITHIN THE DEPARTMENT OF MENTAL HEALTH, AND VIOLATES MY PROTECTED PRIVACY RIGHTS WHILE BEING IN THE CARE OF THE DEPARTMENT OF MENTAL HEALTH. THIS MAKES ME A TARGET SHOULD SOMEONE WANT TO SEEK REVENGE, FOR MY BEING A SVP. THIS IS DISCRIMINATION TO THE PEOPLE HERE IN THE TREATMENT PROGRAM , AND SINCE YOU CAN NOT TREAT US DIFFERENTLY FROM OTHERS SIMILARLY SITUATED THIS IS DISCRIMINATION..~~

10) THERE IS NO KIND OF OUTSIDE OVER CITE SUPERVISION TO PREVENT THE IMPLEMENTATION OF PUNISHMENT TO PERSONS WHO PARTICIPATE IN THE TREATMENT PROGRAM. TREATMENT IS REGULARLY WITHHELD AS PUNISHMENT, ALONG WITH ACCESS TO FOOD/PACKAGES, JOBS, CANTEEN, AND RECREATION SO THE SVPTP STAFF TO INCLUDE NURSING, PUBLIC SAFETY CAN ASSAULT PEOPLE AND USE SEGREGATION TO PUNISH US. THEY HAVE STRIPPED US OF ALL RIGHTS AND SERVICES AND ARE ATTEMPTING TO INSTITUTIONALIZE US INSTEAD OF PROVIDING US WITH CONSTITUTIONAL TREATMENT AS DETERMINED IN KANSAS V. CRANE, AND ACCORDING TO IN: RE MC CRACKEN CITE AS 551 S.E. 2nd 235-- THE S.V.P ACT IS DIRECTED AT “ **EXTREMELY DANGEROUS GROUP OF VIOLENT PREDATOR'S** ”, YET I HAVE NO VIOLENCE IN MY HISTORY. [EXCEPT WHERE DR. GEHLE LIED AND PUT IT IN MY EVALUATION.] THEY WANT YOU TO JUST SIT HERE AND PLAY CARDS, DOMINOES, SHUFFLE BOARD, MEXICAN DOMINOES OR OTHER CHILDREN GAMES, AND THEN CALL IT TREATMENT , THIS IS DISCRIMINATION, NOT ALL OF US PLAY CHILDREN'S GAMES, AND SOME OF US WANT TO BETTER OURSELVES. **ACCORDING TO THE LEGAL ISSUE OF THEM CLAIMING THAT WE HAVE ANTI- SOCIAL DISORDER THERE IS A NEW RELEASE THAT SHOWS THAT THE WAY THAT THE DEPARTMENT OF MENTAL HEALTH ARE TREATING US IS NOT THE PROPER WAY TO TREAT US WITH ANTI-SOCIAL DISORDER. [SEE ENCLOSED DOCUMENTS.]**

11) THE OVER CROWDING IN HERE IS CREATING A PROBLEMS WITH TRYING TO FIND A PLACE TO SIT TO WATCH TELEVISION. THERE HAS BEEN NUMEROUS ALTERCATIONS OVER THE SEATING IN HERE. THERE IS 106 RESIDENT'S IN HERE AND ONLY SETTING FOR APPROXIMATELY 46 RESIDENT'S TO WATCH TELEVISION [NOT INCLUDING STAFF OR SECURITY WHEN THEY CAN BE FOUND] , AND THIS IS A MAJOR PROBLEM. [THE STAFF IS NOT EVEN ON THE FLOOR HALF THE TIME, NOR, SECURITY]

12) CERTAIN CELLS ARE DOUBLE BUNKED, DUE TO THE OVER CROWDING. ACCORDING TO ALL INFORMATION OUT THERE, THERE IS TO BE 77 SQ. FEET PER MAN--YET - THE SQUARE FOOTAGE OF THE ROOM IS ONLY 84-SQ. FEET, THIS LEAVES THE OTHER MAN 7 SQ. FEET TO LIVE IN. BY ALL CASE LAWS OUT THERE WE ARE TO BE CONSIDERED THE SAME AS PRE-TRIAL DETAINEES , WITH ALL RIGHTS AND PRIVILEGES

THAT ARE DUE. YOU ARE NOT SUPPOSE TO BE PUTTING SEX OFFENDER'S IN THE SAME ROOM WITH EACH OTHER , DUE TO THE SEX ACTS THAT ARE SOME TIMES CARRIED OUT. [THEY STATE THAT WE CANNOT NOT GO INTO OTHER ROOMS, DUE TO THE SEX ACTS THAT GO ON- YET - THEY ARE DOUBLE BUNKING US?????]

13) THERE IS NO EDUCATION , ACADEMIC OR VOCATIONAL COURSES OFFERED IN HERE FOR US TO BETTER OUR SELVES. YET, VOCATIONAL TRAINING THAT IS IN THE CONTRACT THAT WE SIGN, STATES THAT THIS IS TO BE GIVEN.

14) OUR TREATMENT PER WEEK, WHEN THEY SHOW UP TO HAVE GROUP, IT IS ONLY ONE (1) AND A HALF (1/2)HOURS TO ONE HOUR(1) AND FORTY FIVE(45) MINUTES PER WEEK. ~~THIS IS NOT TO THE CONSTITUTIONAL MINIMAL STANDARD REQUIREMENT.~~ THIS IS TO DRAG OUT THE TREATMENT, SO THAT IT BECOMES LONG TERM CARE AND TREATMENT. [WE ARE NOT EVEN BEING TREATED FOR OUR ANTI-SOCIAL DISORDER, THAT THEY CLAIM THAT WE HAVE.]

SIR, THIS IS A MAJOR ISSUE WITH ME. WHEN I CAME HERE ON MY OWN I WAS NOT EXPECTING TO BE TREATED LIKE THIS. THE STRESS HERE IS OVR THE TOP, AND THEY TRY TO GET YOU TO MESS UP, SO, THAT THEY CAN BRING THIS AGAINST YOU IN COURT. I AM TRYING TO LOCATE A DIFFERENT EVALUATOR TO TEST ME FOR COURT. AS SOON AS I DO I WILL SEND YOU THE INFORMATION TO YOU.

SO PLEASE, LINE UP COURT FOR ME TO GET OUT OF HERE. SEPTEMBER 8th WILL BE ONE YEAR, SO I CAN GO BACK TO COURT.

I WILL SEND MORE INFORMATION AS I PUT IT TOGETHER , FOR USE IN COURT.

PLEASE CONTACT ME AND LET ME KNOW WHERE WE STAND AS TO COURT AND YOU AS MY LAWYER.

RESPECTFULLY

MICHAEL E. HATTM
7901 FARROW ROAD
BLDG #3 / 3RD FLOOR
COLUMBIA S.C. 29203

TO: GEORGE BISHOP, P.A.
PO. Box 848
WADCKS CORNER, S.C.
29461

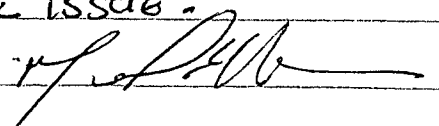
RE TRIAL

SIR,

THERE SEEMS TO BE A MISUNDERSTANDING HERE AS TO MY TRIAL. IF YOU REMEMBER IN COURT, JUDGE DENNIS STATED CLEARLY ON THE RECORD THAT AFTER ONE (1) YEAR, I CAN COME BY TO TRIAL AS A MATTER OF RIGHT. JUDGE DENNIS STATED THIS TO THE ATTORNEY GENERAL AND TO YOU. I, WOULD NEVER HAVE CONTINUED WITHOUT THIS STIPULATION - BESIDES - YOU THE ONE WHO ASKED ABOUT THIS !!

I WROTE TO THE CLERK OF COURT ON THE LEGAL COUNSEL ISSUE - IF I AM RIGHT - SINCE I HAVE NOT HAD A JURY TRIAL THAT YOU ARE STILL THE ATTORNEY-OF-RECORD.

PLEASE CONTACT ME ON THIS LEGAL ISSUE.



George B. Bishop, Jr., P.A.

Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

September 18, 2012

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Michael E. Hamm
7901 Farrow Road
Building 3, 3rd Floor
Columbia, SC 29203

Re: State vs. Michael Hamm
Case No.: 2010-CP-08-4436

Dear Michael:

I received your September 5, 2012, correspondence several days ago. I apologize for the short delay in responding.

I am not sure if I am still your attorney of record or not. When you voluntarily agreed to commitment on September 7, 2012, I believed my representation ended.

I have enclosed a copy of S. C. Code §44-48-110 for your information. As you can see, annually you are to be examined and a report forwarded to the Court, Solicitor and others. The statute also provides that you will be provided with an annual written notice of your right to petition the court for a hearing.

I have not been copied on any such notice. Have you received one yet? If not, it will likely be sent soon. Let me know if you have received this notice.

Very truly yours,


GEORGE B. BISHOP, JR.

GBBjr/jsj

Enclosure

George B. Bishop, Jr., P.A.

Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

May 20, 2013

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Michael E. Hamm
7901 Farrow Road
Building 3, 3rd Floor
Columbia, SC 29203

Re: State vs. Michael Hamm
Case No.: 2010-CP-08-4436

Dear Michael:

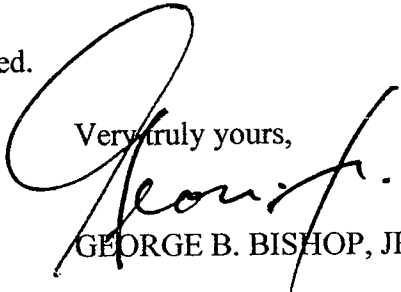
I have communicated with The Supreme Court this week regarding your letter to them.

I have been advised that there seems not to be a consistent position across the state whether appointed attorneys continue to represent individuals who have consented to or been involuntarily sent for treatment. My belief was that I no longer represented you in this matter. After my discussion with the Court, it was agreed that the better course is to continue representation.

Having said all of that, I am and will continue to represent you. The Department of Mental Health was to perform an annual examination regarding your condition, progress, etc... That has not been done as you know. I will in the immediate future file with the court a Motion to Compel and/or Release. Don't count on a release, but it may make the Department of Mental Health get moving on your case.

I will copy you on the Motion when filed.

Very truly yours,


GEORGE B. BISHOP, JR.

GBBjr/jsj

George B. Bishop, Jr., P.A.

Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

May 21, 2013

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Michael E. Hamm
7901 Farrow Road
Building 3, 3rd Floor
Columbia, SC 29203

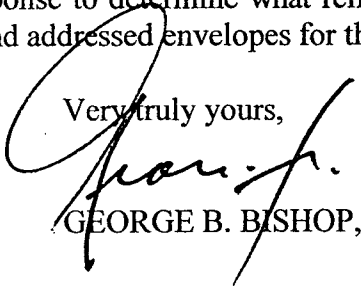
Re: State vs. Michael Hamm
Case No.: 2010-CP-08-4436

Dear Michael:

I hope this letter finds you well. Enclosed is a copy of S. C. Code § 44-48-110. This statute requires an annual review of persons who were committed for treatment.

It is my information that no such review has been made in your case. Please advise if I am correct about that. I am awaiting your response to determine what relief to request on your behalf. Enclosed please find several stamped and addressed envelopes for that purpose.

Very truly yours,



GEORGE B. BISHOP, JR.

GBBjr/jsj

Enclosure

George B. Bishop, Jr., P.A.

Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

May 29, 2013

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Michael E. Hamm
7901 Farrow Road
Building 3, 3rd Floor
Columbia, SC 29203

Re: State vs. Michael Hamm
Case No.: 2010-CP-08-4436

Dear Michael:

I received the information you sent me May 23, 2013. Thank you.

I have requested a copy of the transcript of your September 7, 2011, hearing. Upon receipt, I will forward a copy to you. I think it would be prudent to wait until we receive it before filing any request for relief, as my current thoughts on what should be filed and my belief of what your idea may be seem to me to be different.

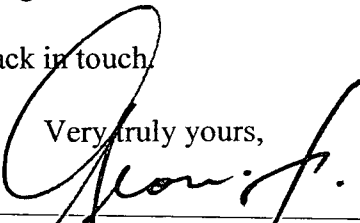
I do not believe that you are in a position to effectively challenge the determination that you are a Sexually Violent Predator. You consented to treatment and by doing so **at that time** waived any challenge to that finding.

Where I think you have a sound argument and complaint is that the Department of Mental Health (The State) is not providing the services and/or procedures that you are entitled to under S. C. Code § 44-48-110, et. seq. The trial you make reference to is a trial that is afforded under the above statute ONCE an annual report has been issued indicating that in the examiner's opinion you continue to be a threat, etc... Based upon such a report, you then may request an independent examination, etc...

You must understand that your challenge is not that you are a Sexually Violent Predator but that following treatment to-date you are no longer a threat to the community.

Upon receipt of the transcript, I will be back in touch.

Very truly yours,


GEORGE B. BISHOP, JR.

GBBjr/jsj

George B. Bishop, Jr., P.A.

Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

June 24, 2013

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Michael E. Hamm
7901 Farrow Road
Building 3, 3rd Floor
Columbia, SC 29203

Re: State vs. Michael Hamm
Case No.: 2010-CP-08-4436

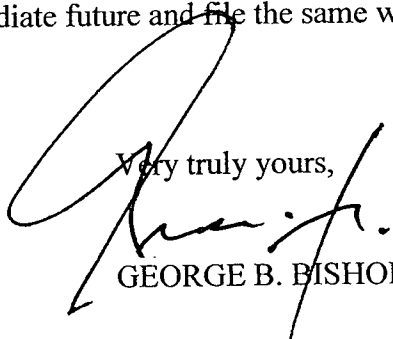
Dear Michael:

Enclosed is a copy of the transcript of your hearing of September 7, 2011. It would seem to me that the appropriate course of action would be to file a Motion to Compel in as much as the State has not complied with the statute that requires them to report to the Court the effects of treatment, etc.

I will prepare a Motion in the immediate future and file the same with the court.

With kindest regards, I remain

Very truly yours,


GEORGE B. BISHOP, JR.

GBBjr/jsj
Enclosure

George B. Bishop, Jr., P.A.

Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

July 10, 2013

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Michael E. Hamm
7901 Farrow Road
Building 3, 3rd Floor
Columbia, SC 29203

Re: State vs. Michael Hamm
Case No.: 2010-CP-08-4436

Dear Michael:

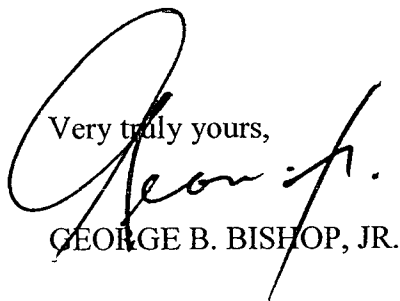
I hope this letter finds you well.

I think you and I are more on the same page than not. I agree with you that a hearing regarding the need of continued treatment is required. That is the hearing Judge Dennis was referring to in the transcript. The way I read the statute is that the hearing follows the examination that is required by statute. That is what we are requesting be performed so that your hearing is held.

Send me the names of the cases regarding the Department of Mental Health not complying with the time frames you referenced.

With kindest regards, I remain

Very truly yours,



GEORGE B. BISHOP, JR.

GBBjr/jsj

George B. Bishop, Jr., P.A.
Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

June 26, 2013

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Mr. James G. Bogle, Jr.
Senior Assistant Attorney General
Office of the Attorney General
P. O. Box 11549
Columbia, SC 29211-1549

Re: Michael Hamm
Case No.: 2010-CP-08-4436

Dear Jim:

Enclosed for service upon you please find a clocked copy of Motion Coversheet and Motion to Compel in reference to the above. Also enclosed you will find a copy of my Certificate of Mailing same.

By copy to John H. McGill, State Director of the S. C. Department of Mental Health, I am serving him with clocked copies of same, together with a copy of my Certificate of Mailing same.

With kindest regards, I am

Very truly yours,


GEORGE B. BISHOP, JR.

GBBjr/jsj

cc – Michael Hamm
John H. McGill

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-08-4436

IN THE MATTER OF THE CARE)
AND TREATMENT OF:)

MOTION TO COMPEL

MICHAEL HAMM,)
RESPONDENT.)
_____)

The Respondent in the above-captioned matter moves before this Court to compel the South Carolina Department of Mental Health to immediately comply with the requirements of S. C. Code of Laws §44-48-110, et seq.

In support of his Motion, Respondent shows this Honorable Court as follows: A hearing was held on September 7, 2011, concerning the Respondent's determination as a Sexually Violent Predator. At the time of this hearing, the Respondent consented to said determination and treatment. Respondent has been confined and receiving treatment since the date of the hearing.

S. C. Code of Laws §44-48-110 provides that a committed person must have an examination of his mental condition performed once every year. Since Respondent's commitment upon belief no such examination or report as required by statute has been prepared or provided.

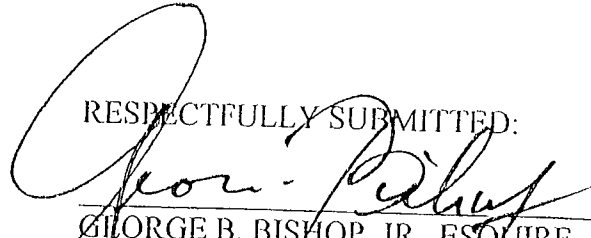
WHEREFORE, Respondent prays that the Court issue its order compelling the South Carolina Department of Mental Health to immediately comply with the requirement of South Carolina Code of Laws §44-48-110 or, in the alternative, appoint a qualified expert to perform an examination as required.

MARY L. BRANT
CLERK OF COURT
BERKELEY COUNTY, SC

2013 JUN 26 AM 11:02

FILED

RESPECTFULLY SUBMITTED:



GEORGE B. BISHOP, JR., ESQUIRE
223 East Main Street, P. O. Box 848
Moncks Corner, SC 29461
843-761-8213

June 26th, 2013

Moncks Corner, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)
IN THE MATTER OF THE)
CARE AND TREATMENT OF)

IN THE COURT OF COMMON PLEAS

CASE NO.: ^{2010 4436} 2012-CP-08-~~2271~~

MICHAEL HAMM

Respondent

ORDER SUBSTITUTING COUNSEL

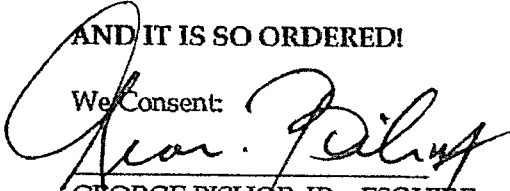
FILED
2013 SEP 26 AM 11:06
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY SC

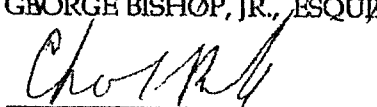
IT APPEARING to this court that GEORGE BISHOP, JR, ESQUIRE, was appointed to represent this matter for the Respondent, MICHAEL HAMM, it is hereby:

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 6th day of September, 2013, GEORGE BISHOP, JR. , ESQUIRE, is hereby relieved of all duties of representation of the above-captioned for the Respondent.

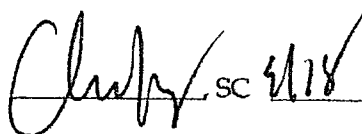
AND IT IS SO ORDERED!

We Consent:


GEORGE BISHOP, JR., ESQUIRE


CHARLES T. BROOKS, III, Esquire


CIRCUIT COURT JUDGE


SC 4178, 2013

George B. Bishop, Jr., P.A.
Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

September 24, 2013

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Michael E. Hamm
7901 Farrow Road
Building 3, 3rd Floor
Columbia, SC 29203

Re: State vs. Michael Hamm
Case No.: 2010-CP-08-4436

Dear Michael:

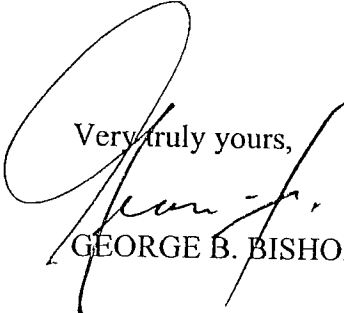
Enclosed please find a copy of an Order being filed with the Court whereby Charles T. Brooks, III is being substituted as counsel in this pending matter.

I am forwarding Mr. Brooks the remainder of your file and will make him aware of your recent evaluation with Dr. Martin.

Mr. Brooks is extremely competent in matters such as this, and I trust you will be well served by his representation.

With kindest regards, I remain

Very truly yours,


GEORGE B. BISHOP, JR.

GBBjr/jsj

cc – Charles T. Brooks, III

George B. Bishop, Jr., P.A.
Attorney at Law

Post Office Box 848
223 E. Main Street
Moncks Corner, SC 29461

July 10, 2013

(843) 761-8213
Fax (843) 761-2776
gbishopjr@yahoo.com

Michael E. Hamm
7901 Farrow Road
Building 3, 3rd Floor
Columbia, SC 29203

Re: State vs. Michael Hamm
Case No.: 2010-CP-08-4436

Dear Michael:

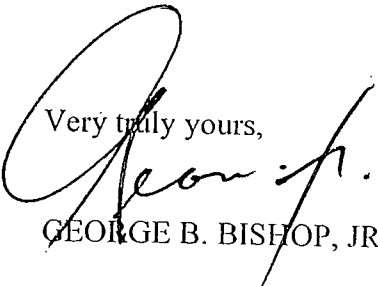
I hope this letter finds you well.

I think you and I are more on the same page than not. I agree with you that a hearing regarding the need of continued treatment is required. That is the hearing Judge Dennis was referring to in the transcript. The way I read the statute is that the hearing follows the examination that is required by statute. That is what we are requesting be performed so that your hearing is held.

Send me the names of the cases regarding the Department of Mental Health not complying with the time frames you referenced.

With kindest regards, I remain

Very truly yours,


GEORGE B. BISHOP, JR.

GBBjr/jsj

Michael E. Hamm
7901 Farrow Road
Bldg #3/ 3rd Floor
Columbia, South Carolina 29203

August 29th 2013

To: George B. Bishop, Jr., P.A.
Attorney at Law
223 E. Main Street
Post Office Box 848
Moncks Corner, S.C. 29461

Re: Information.

I have received your last correspondence and am waiting to see what happens know.
I pray that all is going good for you and yours.

I have a Legal Issue for you again in that on *September the 8th I am do again for my annual review under § 44-48-110 for the year 2013.* The one we are preparing for now is the September the 8th 2012 review!! So, what are we going to do now?

I do have a few questions for you again. I have sent some Case Laws for you to shepardize for me yet I still have not received them?

I sent you some information on Conditions of Confinement to file a Writ of Habeas Corpus for me, yet, no information back on this?

I know that you are probably busy out there, yet, with you as counsel of record I cannot file anything, or else I would have filed. I am just trying my best to get out of this nightmare and yes it is a nightmare. And I am so sorry that I volunteered for this program, yet, it has given me time to get some help on issues that I have had in my life, so, it was not a total loss.

I will await your reply at your nearest convenience.

Sincerely

In The State of South Carolina
County of Berkeley
The State of South Carolina,
Defendants;
Department of Mental Health
& Sexually Violent Predator
Treatment Program as Party
Defendants;
V.
In Re: Care and Treatment of
Michael E. Hamm,
Petitioner.

In The Court of Common Pleas
C/A # 2010-CP-08-4436

Petition for Writ of Mandamus
and Contempt of Statutory Law

The Afore-Named Petitioner in and through himself is now coming to this Honorable Court seeking this *Petition for Writ of Mandamus and Contempt of Statutory Laws, "As -Applied Analysis."*

I, Michael E. Hamm, do hereby declare under the penalty of perjury that the forgoing is true and correct.

On the seventh day of September 2011; I, voluntarily committed myself to treatment and was sent to The Sexually Violent Predator Unit for treatment- *which was not explained to me before hearing.* I, was not told by The Honorable Judge R. Markley Dennis; Senior Assistant Attorney General, James G. Bogel, Jr.; nor by my lawyer George B. Bishop, Jr.; that I would be subjected to issue 2, 3, or 4 in the voluntary committal order. I, did not learn about the voluntary committal issues until I filed a law suit against Dr. Gehle for the lies in the evaluation for my committal hearing.

According to the Sexually Violent Predator act (1998) once a person is involuntarily committed to this program, there is a certain criteria that is mandated that "*must*" be conformed to by Due Process and Equal Protection Rights of the Law. It appears that the State of South Carolina and The Department of Mental Health via The Sexually Violent Predator Unit can and are violating The Statutory Laws pertaining to Section § 44-48-110, Periodic Mental Examination of Committed Persons; Report; Petition for Release; Hearing; Trial to consider release.

Even as a voluntary committal, I still fall within the Statutory Guidelines of section § 44-48-110, as is stipulated in the voluntary committal order signed by the Honorable Judge R. Markley Dennis on the Seventh day of September, 2011. So, I now bring in question as a Novel Question of Law as to the Contempt of the Statutory Laws by the State of South Carolina and The Department of Mental Health via The Sexually Violent Predator Unit in an, "As-Applied Analysis."

ISSUES NOT COMPLIED WITH BY STATUTORY LAW

- 1) A person committed pursuant to this chapter "*must*" have an examination of his mental condition performed once every year.
- 2) The court "*must*" conduct an annual hearing to review the status of the committed person.
- 3) The committed person "*is not*" prohibited from petitioning the court for release at this hearing.
- 4) The Director of the department of mental health "*must*" provide the committed person with an annual

written notice of the person's right to petition the court for release over the Director's objection; the notice "must" contain a waiver of rights.

ISSUES DENIED

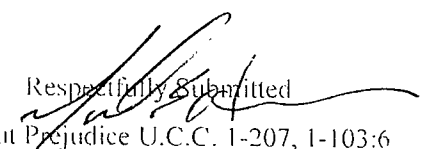
- A) My last mental examination was held on July 12, 2011
- B) My last annual hearing was held on "none".
- C) My last petition to the court for release was on September , 2012.
- D) The Department of Mental Health last provided an annual written notice of right to petition with the notice of waiver of rights on "none."

CONCLUSION

Based upon the forgoing The State of South Carolina and The Department of Mental Health via The Sexually Violent Predator Unit are in violation of the resident's Constitutional Rights both State and Federal as a matter of right of law. "As-Applied Analysis." as to the violation to section § 44-48-110 of the Sexually Violent Predator Act (1998) Act.

Resident, Michael E. Hamm is seeking Declaratory Judgment and Injunctive Relief based upon the Constitutional Rights Violations that occurred by The State of South Carolina and The Department of Mental Health via The Sexually Violent Predator Unit. Declaratory Judgment and Injunctive Relief should begin upon the court receiving said petition, until said violations are addressed to the full extent of the law, the Constitutional Rights Violations are resolved and A Resident's Bill on Rights are drafted to conform with the issues raised, so, that the same issues will not arise in the future.

It is so moved
on this 25th day of February 2013

Respectfully Submitted

Without Prejudice U.C.C. 1-207, 1-103:6

c c:/ Clerk of Court, Berkeley County;
File.

Michael E. Hamm
7901 Farrow Road
Bldg.#3 / 3rd Floor
Congaree Unit
Columbia S.C. 29203

May 23rd, 2013

TO: Mr. George B. Bishop, Jr., P.A.
Attorney at Law
223 E. Main Street
Post Office Box 848
Moncks Corner, S.C. 29461

RE: Information (cont'd)

Sir,

Here is some information for you to look into and to shepardize for me please.

In 1998 I was pro-se and was not afforded counsel. According to the United States Supreme Court, this is not to be allowed. The legal issues are as follows:

1: Was not given discovery; 2: Was not informed of a direct appeal; 3) Was not informed of my right to counsel as a matter of Constitutional Right, both State and Federal; 4) Was not informed of the consequences of my plea as to the Sex Offender Registry. According to the following cases this conviction is not to be used for anything past that conviction.

Baldasar v. Illinois, 446 U.S. 222 (1980); *Argersinger v. Hamlin*, 407 U.S. 25 (1972); *Gideon v. Wainwright*, 372 U.S. 335 (1963); *United States v. Tucker*, 404 U.S. 443 (1972). We need to see if there is any updated cases out there, due to the fact that Ms. Garner will not shepardize for us, since she works for D.M.H.. This is an important legal issue since it cannot be used for the S.V.P. Act.

As pertaining to the Statutory Violation of the S.V.P. Act here are some cases in which we need to shepardize, since they are Wisconsin cases. The cases are as follows:

State ex rel. William E. Marberry v. Macnt., 254 Wis. 2d 690 (Wis. App. 1998); *In re Commitment of Beyer*, 707 N.W. 2d 509 (Wis. 2006). they cannot violate the Statutory Law of this State and get away with it. I have been trying to find U.S. Supreme Court cases, yet, it is hard to do in here.

You cannot just put me in limbo in here. By the U.S. Supreme Court we are still considered as *pre-trial detainee's* for purposes of the S. V. P. Act. So, I may not have the Fifth and Sixth Amendments Rights, yet, I still have the Fourteenth Amendment Constitutional Rights. Can you please help me with this?

This is my life at issue here and my protected liberty interest to my Constitutional Rights. I am not trying to tell you how to do your job, it is just that I know all the facts and you don't as to my case.

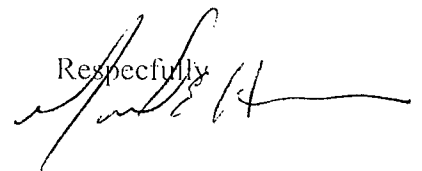
The third issue is according to the U.S. Supreme Court in order to be put in here you have to have violated a law. I know that I cannot get my case overturned in the civil side, but I can show the truth to the matter. In this I am talking about the Lewd Act charges, § 16-15-140. The law states that you have to commit the act upon the body of the child or it's parts. Then in *State v. Brock*, 516 S.E. 2d 212 (S.C. App. 1999), this was clarified on page three [half way down and underlined] that the act has to be committed upon the body of the child.

Next , included is the D.O.J. Bureau of Vital Statistics state to state look at sex offenses. In the State of South Carolina “ *is sexual contact with the victim required?* ” “yes”.

The next case is the 2005 Lewd act charge, in that she herself stated that I committed the act upon myself, and wiped off my belly with a tissue. The C.S.C. Charge was Nol Prosse and cannot be used for the S.V.P. Act, since it states that I had to plea to said offense.

So where do we go from here? Please help with these issues and contact me on this information if you can shepardize them for me to help in court. Included are motions that I filed into the Clerk of Court for Berkeley County, since you stated that you were not my lawyer. There is some good research in these motions, and you could use a lot of this information and case laws.

Respectfully



Michael E. Hamm
7901 Farrow Road
Bldg.#3 / 3rd Floor
Congaree Unit
Columbia S.C. 29203

May 23rd, 2013

TO: Mr. George B. Bishop, Jr., P.A.
Attorney at Law
223 E. Main Street
Post Office Box 848
Moncks Corner, S.C. 29461

RE: Information

Sir,

This is in return to your request as to the matter at hand. As I notified you back in September of 2012, that the Department of Mental Health were and are in violation of Statutory Law as of September 8th 2012 under S.C. Section 44-48-110. I, have already been trying to have this heard to no avail. I, have filed in the court(s), a "Petition for Writ of Mandamus" and "Contempt of Statutory Law." [included in this is a notification from Daniel E. Shearouse of the S.C. Supreme Court to the Clerk of Court for Berkeley County as to this legal issue of the Statutory Law Violation. Also I included a copy of the Petition for Writ of Mandamus that was sent into the Court of Common Pleas back in march of 2013.]

I, have been trying to study the law on this place and it is a nightmare. The rules do not apply to us in here. They believe that they can violate the law and have been getting away with it. I, know that there is certain things that they are required to prove in court by case laws and legal laws, yet, here in this state this does not seem to matter. Once you come here it is hard to get back out, unless you are dying.

I, am not a lawyer, and do not claim to be, yet, I have had plenty of time to study in here cases dealing with this place and places in other states. So, I am here to help you if you have any questions dealing with this place and cases to back up the legal issues. I, am fighting for my life here and feel that I do not qualify as to meet the criteria for this place. I, believe that we can win if we fight tooth and nail to bring out the truth to the matter asserted.

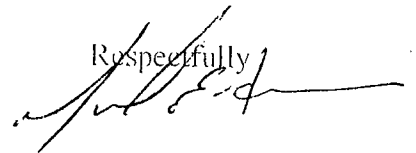
There is a matter of importance here as to something that happened in my voluntary committal hearing in 2011.

Do you remember that the Honorable Judge Dennis, stated on the record of the court to the Attorney General and to you, that in one year if "I" wanted to come back for my trial , that I could. This is stated in the open record of the court. We need a copy of this transcript so that they do not say that I need an Annual Hearing under Statutory Law since Judge Dennis stated: ~~"That I could come back in one year for my trial if I wanted!"~~ So, this should do away with the statutory law requirement. Please get the transcript to show as evidence.

We also need to line up an independent evaluation since this was never done. so, can you file the paperwork for this, please.

I will contact you again as soon as I hear back from you, thank you and my the father and son have blessings upon you.

Respectfully

A handwritten signature in black ink, appearing to be "J. Dennis", written over the word "Respectfully".

The Brooks Law Offices, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

February 10, 2014

Michael Hamm
7901 Farrow Road
Bldg 3, 3rd Floor
Columbia, S. C. 29203

RE: In the Matter of the Care and Treatment of
Michael Hamm

Dear Mr. Hamm:

Please be advised that I would advise you against all of these filings. These filings could pose a harm to your case and your eventual freedom.

With kind regards, I am,

Sincerely,

Charles T. Brooks, III
CTB, III/jlb

STATE OF SOUTH CAROLINA]
COUNTY OF BERKELEY]

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA]
DEPARTMENT OF MENTAL HEALTH VIA]
S.V.P.T.P.;]

**MOTION TO DISMISS PURAUANT TO
TO RULE 12 & 41 (b) SCRPC ; AND
FOR LEGAL ISSUE'S HEREIN RAISED**

PLAINTIFF]
and PARTY PLAINTIFF'S]

V.]
MICHAEL E. HAMM]
RESPONDENT]

C/A NO. 2010- CP- 08- 4436

The Respondent above-named, hereby Motions this Honorable Court to Dismiss the above referenced case Pursuant to Rule 12 (b)(1) and 41 (b) of the South Carolina Rules of Civil Procedure (SCRPC) and for Other Legal Issues Herein Raised. The reason this matter should be dismissed if because this Court Lacks Subject- Matter Jurisdiction over my person to hear said case.

When seeing if a Civil Commitment is Civil or Punitive the following case should be used to decide the Legal Questions presented , in an 'As-Applied Analysis.'

Kennedy v. Mendoza-Martinez, 372 U.S. 144 (1963), (1) Whether the sanction involves “affirmative disability or restraint;” (2) “Whether it has historically been regarded as punishment;” (3) “*Whether [the penalty] comes into play only [after] a finding of scienter;*” (4) Whether the operation of the penalty promotes retribution or deterrence; (5) “*Whether the behavior to which [the penalty] applies is already a crime;*” (6) Whether an alternative purpose is assignable for the penalty; and (7) Whether the penalty is “excessive in relation to the alternative purpose assigned.” *Hendricks*, 117 S.Ct. at 2098 (Breyer, J., dissenting) (quoting *Kennedy v. Mendoza-Martinez*, 372 U.S. at 168-69). After applying these factors to *Hendrick's* case, Justice Breyer argued that each of them weighed in favor of finding the act to be punitive. See *id.* (Breyer, J., dissenting). Justice Breyer said that the *Kennedy v. Mendoza-Martinez* factors were merely helpful but not dispositive in evaluating a sanction as punitive or civil. See *id.* (Breyer, J., dissenting). He did not detail his use of these factors but rather said each one balances “in favor of Constitutional Characterization [of the act] as ‘punishment.’” *id.* (Breyer, J., dissenting). However, sexually violent predator statutes are overbroad and some are people who can make choices and respond to criminal sanctions. This extension of civil commitment, “[i]n the absence of mental illness sufficiently serious violates the first principle of limited government.... to treat every mentally competent adult as a free and autonomous person responsible for his chosen actions.... and only for his chosen actions.” (Arguing that treatment may benefit sex offenders, but they are generally considered to be competent and thus are entitled to make their own decisions about treatment.)

Issue One

The Department of Mental Health and State that runs this program for Violating my Civil Right's and Constitutional Rights, due to [T]hem not following the Mandatory Requirement in § § 44- 48- 110, in an "As-Applied Analysis." [T]hey are Violating my Civil Rights, Due Process, and Equal Protection Rights of the State and Federal Constitution.

1. South Carolina Code of Law Ann. § 44-48-110 states: **Periodic mental examination of committed persons; report; petition for release; trial to consider release.** A person committed pursuant to this chapter *must* have an examination of his mental condition performed *once every year*. The person may retain or, if the person is indigent and so request, the court may appoint a qualified expert to examine the person, and the expert *must* have access to all medical, etc..... The Annual Report *must* be provided to the court which committed the person pursuant to this chapter, the Attorney General, etc..... The court *must* conduct an annual hearing to review the status of the committed person. The person is not prohibited from petitioning the court for release at this hearing. The Director of the Department of Mental Health *must* provide the committed person with an annual written notice of the person's right to petition the court for release over the Director's objection; the notice *must* contain a waiver of rights. The Director *must* forward the notice and waiver to the court with the annual report. Etc.....

2. All the evidence that will be presented will show that this was not complied with in accordance with the South Carolina Code of Law Ann. § 44-48-110 states: **Periodic mental examination of committed persons; report; petition for release; trial to consider release.** The Respondent's Constitutional Right's to Equal Protection of the Laws has been violated by the Plaintiffs, and his Constitutional Right's not to be subjected to Undue Restraint S.C. Constitution Article I, Bill of Rights § 3 Privileges and immunities; Due Process; Equal Protection of Laws. The privileges and immunities of citizens of this State and the United States under this Constitution *shall not* be abridged: *Nor shall* any person be deprived of *life, liberty*, or property *without due process of law, nor shall any person be denied the equal protection of the laws*. The Respondent has been denied this by the actions of the Department of Mental Health and the Attorney Generals Office for allowing this *Injustice* to continue. The State and the Attorney Generals Office are suppose to protect us from this *Injustice* by Due Process of the Laws.

*****On the 24th of July 2013, they had me finally sign the Documents for Annual Examination And Review Hearing that is ten (10) months past the statutory requirement . The Annual Review Pursuant to § 44-48-110 has not been done as of August 16, 2013; eleven (11) months past the statutory requirement . **** As of this date of January 26th 2014, I still have not had my hearing by the Statutory Requirement Pursuant to § 44-48-110. This is nineteen (19) months past the Statutory Requirement Pursuant to § 44-48-110. *****

3. Based on established precedent, under the Rules of Statutory Construction, in interpreting Statutes, the Court looks to the plain meaning of the Statute and the intent of the Legislature. *Gay v. Arial*, 673 S.E. 2nd 418 (S.C.

2009); *Edwards v. Sanford*, 678 S.E. 2nd 412 (S.C. June 4, 2009). Subtle or force construction to limit or expand a Statute's operation is not allowed. *Converse Power Corp. v. S.C. Dept. of Labor, Licensing, and Regulations*, 523 S.E. 2nd 795 (Ct. App. 1999).

4. Violation of the Sexually Violent Predator Statute, S.C. Code of Laws Ann. § 44-48-110: See the following case as a reference: 254 Wis. 2d 690 (Wis. App. 1998). *State ex rel. Marberry v. Macht*. The potential consequences for both parties cannot be labeled insignificant; failure to conduct a reexamination could result in the release of a potentially dangerous mentally disordered person into the community or "The Continued Confinement of a Person Who No Longer Presents a Danger to Society and The Prolonged Deprivation of [H]is or her Liberty. When the failure to act within "A Statutory Time Limit Does Work an Injury or Wrong", this Court has construed the time limit as Mandatory. *Karow*, 82 Wis. 2d at 572, 263 N.E. 2d 214. Certainly an individual such as Marberry, who is institutionalized and deprived of his liberty, is injured to a substantial degree.

The general rule in interpreting statutory language is that the word shall [in this State the Mandatory word "Must"] is presumed Mandatory when it appears in a statute. *State v. Sprosty*, 227 Wis. 2d 316, 324, 595 N.E. 2d 692 (1999) (citation omitted). "Further support is given to a mandatory interpretation of "shall" ["must" in S.C.] in a particular statutory section, indicating the legislature was aware of the distinct meaning of the words."

The Legislature in the State of South Carolina used the word "must" in S.C. Code of Laws Ann. § 44-48-110: A person committed pursuant to this chapter **must** have an examination of his mental condition performed *once every year*. The person may retain or, if the person is indigent and so request, the court may appoint a qualified expert to examine the person, and the expert **must** have access to all medical, etc..... The Annual Report **must** be provided to the court which committed the person pursuant to this chapter, the attorney General, etc..... The court **must** conduct an annual hearing to review the status of the committed person. The person is not prohibited from petitioning the court for release at this hearing. The Director of the Department of Mental Health **must** provide the committed person with an annual written notice of the person's right to petition the court for release over the Director's objection; the notice **must** contain a waiver of rights. The Director **must** forward the notice, etc.....

****Where statutes provide for performance of acts by public officers protecting private rights or the public in the public interest, they are mandatory. This rule has been enunciated by the United States Supreme Court as follows: "The conclusion to be declared from the authorities is, that where power is given to public officers.... whenever.... individual rights call for its exercise --- the language used... is in fact preemptory." (citing *Bd. Of Supervisors v. United States ex rel. State Banks*, 71 U.S. (4 Wall) 435, 446-47, 18 L.Ed. 419 (1867)). ****

When our Supreme Court held that S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 to be Constitutional the State promised it was prepared to provide specific treatment to those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 and not to simply warehouse those committed. The State assured our Supreme Court that as the population increased, plans existed to increase the staff proportionately and that a committed person would be discharged as soon as his or her dangerousness or mental disorder abated. As noted, it was presumed good faith on the part of the Legislature; the State is clearly obliged under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 to

provide, care and treatment to those determined to be sexually violent persons. South Carolina's Statute § 44-48-110 does contain restrictive procedural time limits and they acknowledge that these time limits may cause administrative difficulties. **HOWEVER**, our Supreme Court accepted the State's affirmation that it was "prepared to provide specific treatment to those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 and not simply warehouse them" and that the Legislature would "proceed in good faith and fund the treatment programs necessary for those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170."

HOWEVER, the Department of Mental Health through the Sexually Violent Predator Treatment Program took nearly two (2) years to provide Respondent with a reexamination that should have been conducted within one(1) year. Under the extreme state of affairs presented here and the prolonged Deprivation of Respondent's Liberty in Violation of the Strict Safeguards of S.C. Code of Laws Ann. § 44-48-110, Respondent's release is the only appropriate remedy.

CONCLUSION: *This Court should conclude that the one-year time limit of S.C. Code of Laws Ann. § 44-48-110 for an initial reexamination is mandatory and because of the egregious circumstances if this case, Plaintiff's release is necessary. Therefore the order of the Court of Common Pleas should be reversed.*

The Plaintiff is informed and believes that the statute is to be interpreted to be any accumulation of material possessed violate the statute and the prescribed requirement in statute in § 44-48-110. Whether that is correct, and whether it is stated in mandatory language, this is the question before this Court? If the Court declares that the Plaintiff's interpretation is correct, then the question of whether an individual can be subjected to the multiple violations carried out by the Department of Mental Health, The State of South Carolina and The Attorney General's Office:

Respondent, asserts: At best, the statutes are ambiguous on this matter.... [A] State Criminal Statute Violates the Due Process Clause of the United States Constitution - "if" that statute is not sufficiently explicit to inform those who are subject to it, what conduct on [their] part will render them liable to its penalties. *Connally v. General Const. Co.*, { 269 U.S. 385,391 (1926) }.... The Statute does not clearly put a person on notice as to the penalty applicable to the crime, a fundamental requirement of the Due Process Clause. see also *Media General Comm. Inc., V. S.C. Public Service Com'n.* 694 S.E. 2nd 525 (2010).

Issue Two

I charge my past Counsel Mr. George B. Bishop, Jr., with Ineffective Assistance of Counsel for not filing on "The Department of Mental Health and State that runs this program for Violating my Civil Right's and Constitutional Rights, due to [T]hem not following the Mandatory Requirement in §§ 44- 48- 110, in an "As- Applied Analysis." [T]hey are Violating my Civil Rights, Due Process, and Equal Protection Rights, of the State and Federal Constitution." I made Mr. George B. Bishop, Jr., aware of this Legal Issue back in September of 2012 when I noticed that they had not followed the requirement in § 44- 48- 110, and he stated that he was not sure if he was my counsel since I volunteered for the program. When he found out that he still was my counsel, he did nothing about this Legal

Issue, he did nothing to "*Prosecute this Legal Issue.*"

I charge my present Counsel Mr. Charles T. Brooks, III, with Ineffective Assistance of Counsel for not filing on "*The Department of Mental Health and State that runs this program for Violating my Civil Right's and Constitutional Rights, due to [T]hem not following the Mandatory Requirement in §§ 44- 48- 110, in an "As-Applied Analysis."* [T]hey are Violating my Civil Rights, Due Process, and Equal Protection Rights of the State and Federal Constitution." I made Mr. Charles T. Brooks, III, aware of this Legal Issue back on/ or about November of 2013 by letter; then in January of 2014 on the telephone, and he did nothing to "*Prosecute this Legal Issue.*" He Stated: That this was a Post-Conviction Relief Issue and that I should get everyone in here to file a Class-Action on this Legal Issue. He stated that this was not an issue to raise at the Annual Review Hearing, and this Legal Issue should be raised at the Annual Review Hearing, since that is has been violated. This is in Violation of the State and Federal Constitutions to not be Subjected to Undue Restraint. By [T]hem not allowing me my Annual Review Hearings as Required by the Letter of the Law, [T]hey have Violated my "*Protected Liberty Interest not to be Subjected to Undue Restraint.*"

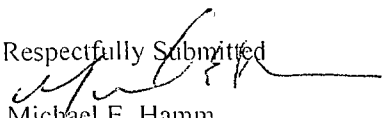
PRAYER

The Respondent prays that this court will decide, and declare, whether the Plaintiff's are in violation of the intent of so-listed in the forgoing. If so, a justifiable controversy exists, needing further analysis if a statutory violation occurred and administration of the appropriate relief pursuant to S.C. Code of Law Ann. § § 15-53-10 to 140.

Wherefore, based upon all of the forgoing, the Respondent moves this Honorable Court for an Order of Declaratory Judgment to answer the questions posed. The Respondent then asks for Prospective Relief and Injunction to correct the unlawful restraint of this Respondents Constitutional Rights and Protected Liberty Interest to the Privileges and Immunities of citizens of this State and the United States under this Constitution *shall not* be abridged. *Nor shall* any person be deprived of *Life, Liberty*, or property *without Due Process of Law, nor shall any person be denied the Equal Protection of the Laws.* The Respondent *has been denied* this by the actions of the Attorney Generals Office and The State of South Carolina for allowing this *injustice* to continue. The State and the Attorney Generals Office are suppose to protect us from this *injustice* by Due Process of the Laws.

Cc:// Clerk of Court, Berkeley County
Post Office Box 219
Moncks Corner, S.C. 29461-0219;
File.

Respectfully Submitted


Michael E. Hamm
7901 Farrow Road,
Bldg #3/ 3rd floor
Columbia S.C. 29203-3220

The Brooks Law Offices, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

January 16, 2014

Office of the Attorney General
Attn: James Bogle, Esquire
PO Box 11549
Columbia, SC 29211-1549

RE: In the Matter of the Care and Treatment of
Michael Hamm, Case No. 2010-CP-08-4436

Dear Mr. Bogle:

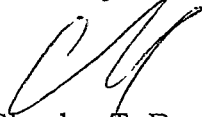
Please be advised that I have spoken to Mr. Hamm today in reference to his case.

At this time Mr. Hamm wishes to withdraw this year's Annual Review.

Thank you in advance for your prompt attention to this matter and if you have any questions or concerns, please do not hesitate to call me.

With kind regards, I am,

Sincerely,



Charles T. Brooks, III
CTB, III/jlb

cc: Michael Hamm

The Brooks Law Offices, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

January 16, 2014

Michael Hamm
7901 Farrow Road
Bldg 3, 3rd Floor
Columbia, S. C. 29203

RE: In the Matter of the Care and Treatment of
Michael Hamm

Dear Mr. Hamm:

Please be advised that I enjoyed speaking with you today.

Per our conversation, it is my understanding that you wish to waive your Annual Review. Please confirm this in writing to me as soon as possible.

With kind regards, I am,

Sincerely,



Charles T. Brooks, III
CTB, III/jlb

Michael E. Hamm
7901 Farrow Road
Bldg. # 3/ 3rd Floor
Columbia, S.C. 29203- 3220

January 18th 2014

To: Mr. Charles T. Brooks, III
The Brooks Law Office, LLC
Post Office Box 3512
Sumter, S.C. 29151

Re: Notice of Intent

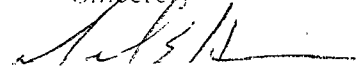
Sir,

Sir, at this time I am pulling back my Denial of an Annual Review.

I am seeking to have my Annual Review Hearing with in the Statute at this time. As was stated in the Voluntary Committal Hearing by Judge Dennis that I have the right to attend the hearing and I wish at this time to attend.

I have contacted Mr. Bogel, Jr. and informed him of the same Legal Issue.

Sincerely



** NOTICE IN THE VOLUNTARY COMMITMENTAL HEARINGS TRANSCRIPT, IT IS STATED TO MR. BOGEL, JR. AND PREVIOUS COUNSEL THAT I CAN ATTEND THIS HEARING, AND MR. BOGEL, JR. AGREED.*

CC:// Mr. Bogel, Jr.
Office of the Attorney General
Post Office Box 11549
Columbia, S.C. 29211- 1549

The Brooks Law Offices, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

January 24, 2014

Michael Hamm
7901 Farrow Road
Bldg 3, 3rd Floor
Columbia, S. C. 29203

RE: In the Matter of the Care and Treatment of
Michael Hamm

Dear Mr. Hamm:

Please be advised that I have already indicated to the Court that you consented to waiving the review.

Please note this is what you indicated through our phone conversation.

With kind regards, I am,

Sincerely,

Charles T. Brooks, III
CTB, III/jlb

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELY)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
MICHAEL HAMM,)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-08-4436
CONSENT ORDER WAIVING ANNUAL
REVIEW HEARING

This matter comes before the Court to consider Respondent Michael Hamm's consent to his waiver of his Annual Review hearing, which covers the period from September 8, 2011 through July 13, 2013. Respondent is represented by Charles T. Brooks III., Esquire. The State is represented by Senior Assistant Attorney General James G. Bogle, Jr.

Mr. Brooks represents to this Court by his signature below that he has fully discussed with his client his rights under the statute, has obtained an independent psychiatric evaluation of his client, and that the Respondent has voluntarily and intelligently waived his rights to an Annual Review hearing and to Petition for Release, and has not been coerced, pressured, or offered any reward to waive these rights, has had an opportunity to consult with his attorney, and is satisfied with the services of his attorney.

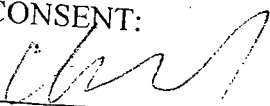
THEREFORE IT IS ORDERED, ADJUDGED AND DECREED the Respondent shall continue to be confined in a secure facility of the Department of Mental Health for long term control, care and treatment pursuant to the Sexually Violent Predator Act, S.C. Code Ann. Sections 44-48-10 *et seq.*

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

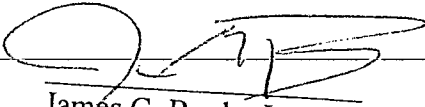
AND IT IS SO ORDERED.

The Honorable Stephanie P. McDonald
Chief Administrative Judge Ninth Judicial
Circuit Court of Common Pleas

_____, 2014
Charleston, South Carolina

WE CONSENT:


Charles T. Brooks, III.
Attorney for Respondent



James G. Bogle, Jr.
Attorney for the State

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

January 31, 2014

Mr. Michael E. Hamm
7901 Farrow Road
Bldg. 3, 3rd Floor
Columbia, SC 29203

RE: In the Matter of the Care and Treatment of Michael E. Hamm

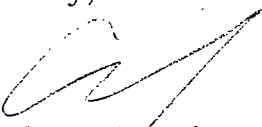
Dear Mr. Hamm:

Enclosed please find a copy of correspondence from the Attorney General's Office with a proposed Order Waiving your Annual Review Hearing that has been submitted to the Judge for his review and signature.

If there is anything that you wish to discuss with me or information that you need to share, please do not hesitate to contact me.

I look forward to hearing from you soon.

Sincerely,



Charles T. Brooks, III
CTBIII/srw

DR 6 -101 Failing to Act Completely.

A. A lawyer shall not:

1. Handle a legal matter which he knows or should know he is not competent to handle.
2. Handle a legal matter without preparation adequate in the circumstances.
3. Willfully or intentionally neglect a legal matter entrusted to him.

The Brooks Law Offices, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

February 10, 2014

Michael Hamm
7901 Farrow Road
Bldg 3, 3rd Floor
Columbia, S. C. 29203

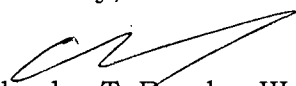
RE: In the Matter of the Care and Treatment of
Michael Hamm

Dear Mr. Hamm:

Please be advised that I would advise you against all of these filings. These filings could pose a harm to your case and your eventual freedom.

With kind regards, I am,

Sincerely,


Charles T. Brooks, III
CTB, III/jlb

State of South Carolina]
County of Berkeley]

In the Court of Common Pleas
Ninth Judicial Circuit

State of South Carolina;]
John MaGill, Department of Mental Health;]
via Holly Scautro, S.V.P.T.P.; Mr. Bishop,]
Attorney; Mr. Brooks, Attorney;]
Plaintiff]
and Party plaintiff's]
V.]
Michael E. Hamm]
Respondent]

Motion to Dismiss Consent Order Waiving
Annual Review Hearing; Rule DR. 6-101;
under No Showing of Dangerousness in the
Probable Cause Hearing, then the Voluntary
Committal Hearing and for Legal Issue's
Herein Raised

C/A No. 2010- CP- 08 - 4436

Attention: The Honorable Stephanie P. McDonald, Chief Administrative Judge Ninth
Judicial Circuit, Court Of Common Pleas. 100 Broad Street, Suite 427, Charleston, South Carolina
29401.

The Respondent hereby objects to the State's Motion to *"Consent Order Waiving Annual Review Hearing is an Injustice."* The State and my Counsel Mr. Charles T. Brooks III, Esquire, are trying to have waived the annual Review Hearing for two (2) years, not, just the 2012 hearing. I contacted Mr. Brooks by mail on/ or about the 19th of February 2014 that I did not want to consent to this. I have not had any Annual Review Hearing since I came into this program in September 8th 2011. By the Letter of the Law according to South Carolina Code Ann. § 44-48-110, this is *"must be"* done every year and I have had none based on the forgoing I *"Object to this Consent Order Waiving Annual Review Hearing."*

When a Waiveable Right or claim is involved, the failure to make a reservation thereof; causes a loss of the right and bars it's assertion at a later date..... U.C.C. 1-103:6 Common Law, a statute should be construed in harmony with the common law ,unless there is clear legislative intent to abrogate the common law, 'The Code Cannot be Read to Preclude a Common Law Action.'

Issue One

The Department of Mental Health and State that runs this program are Violating my Civil Right's and Constitutional Rights, due to [T]hem not following the Mandatory Requirement in § 44- 48-110 & 44- 48 30, in an "As- Applied Analysis." [T]hey are Violating my Civil Rights, Due Process, and Equal Protection Rights of the State and Federal Constitution under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State.

1. South Carolina Code of Law Ann. § 44-48-110 states: **Periodic mental examination of committed persons; report; petition for release; trial to consider release.** A person committed pursuant to this chapter *must* have an examination of his mental condition performed *once every year*. The person may retain or, if the person is indigent and so request, the court may appoint a qualified expert to examine the person, and the expert *must* have access to all medical, etc..... The Annual Report *must* be provided to the court which committed the person pursuant to this chapter, the Attorney General, etc..... The court *must* conduct an annual hearing to review the status of the committed person. The person is not prohibited from petitioning the court for release at this hearing. The Director of the Department of Mental Health *must* provide the committed person with an annual written notice of the person's right to petition the court for release over the Director's objection; the notice *must* contain a waiver of rights. The Director *must* forward the notice and waiver to the court with the annual report. Etc.....

2. All the evidence that will be presented will show that this was not complied with in accordance with the South Carolina Code of Law Ann. § 44-48-110 states: **Periodic mental examination of committed persons; report; petition for release; trial to consider release.** The Respondent's Constitutional Right's to Equal Protection of the Laws has been violated by the Plaintiffs, and his Constitutional Right's not to be subjected to Undue Restraint S.C. Constitution Article I, Bill of Rights § 3 Privileges and immunities; Due Process; Equal Protection of Laws. The privileges and immunities of citizens of this State and the United States under this Constitution *shall not* be abridged. *Nor shall* any person be deprived of *life, liberty*, or property *without due process of law, nor shall any person be denied the equal protection of the laws*. The Respondent has been denied this by the actions of the Department of Mental Health and the Attorney Generals Office for allowing this *Injustice* to continue. The State and the Attorney Generals Office are suppose to protect us from this *Injustice* by Due Process of the Laws.

*****On the 24th of July 2013, they had me finally sign the Documents for Annual Examination And Review Hearing that is ten (10) months past the statutory requirement . The Annual Review Pursuant to § 44-48-110 has not been done as of August 16, 2013; eleven (11) months past the statutory requirement . **** As of this date of February 5th 2014, I still have not had my hearing by the Statutory Requirement Pursuant to § 44-48-110. This is Eighteenth (18) months past the*

*Statutory Requirement Pursuant to § 44-48-110. *****

3. Based on established precedent, under the Rules of Statutory Construction, in interpreting Statutes, the Court looks to the plain meaning of the Statute and the intent of the Legislature. *Gay v. Arial*, 673 S.E. 2nd 418 (S.C. 2009); *Edwards v. Sanford*, 678 S.E. 2nd 412 (S.C. June 4, 2009). Subtle or force construction to limit or expand a Statute's operation is not allowed. *Converse Power Corp. v. S.C. Dept. of Labor, Licensing, and Regulations*, 523 S.E. 2nd 795 (Ct. App. 1999).

4. Violation of the Sexually Violent Predator Statute, S.C. Code of Laws Ann. § 44-48-110: See the following case as a reference: 254 Wis. 2d 690 (Wis. App. 1998). *State ex rel. Marberry v. Macht*. The potential consequences for both parties cannot be labeled insignificant; failure to conduct a reexamination could result in the release of a potentially dangerous mentally disordered person into the community or "The Continued Confinement of a Person Who No Longer Presents a Danger to Society and The Prolonged Deprivation of [H]is or her Liberty. When the failure to act within "A Statutory Time Limit Does Work an Injury or Wrong ". this Court has construed the time limit as Mandatory. *Karow*, 82 Wis. 2d at 572, 263 N.E. 2d 214. Certainly an individual such as Marberry, who is institutionalized and deprived of his liberty, is injured to a substantial degree.

The general rule in interpreting statutory language is that the word shall [in this State the Mandatory word "Must"] is presumed Mandatory when it appears in a statute. *State v. Sprosty*, 227 Wis. 2d 316, 324, 595 N.E. 2d 692 (1999) (citation omitted). "Further support is given to a mandatory interpretation of "shall" ["must" in S.C.] in a particular statutory section, indicating the legislature was aware of the distinct meaning of the words."

The Legislature in the State of South Carolina used the word "must" in S.C. Code of Laws Ann. § 44-48-110: A person committed pursuant to this chapter **must** have an examination of his mental condition performed *once every year*. The person may retain or, if the person is indigent and so request, the court may appoint a qualified expert to examine the person, and the expert **must** have access to all medical, etc..... The Annual Report **must** be provided to the court which committed the person pursuant to this chapter, the attorney General, etc..... The court **must** conduct an annual hearing to review the status of the committed person. The person is not prohibited from petitioning the court for release at this hearing. The Director of the Department of Mental Health **must** provide the committed person with an annual written notice of the person's right to petition the court for release over the

Director's objection; the notice *must* contain a waiver of rights. The Director *must* forward the notice , etc.....

****Where statutes provide for performance of acts by public officers protecting private rights or the public in the public interest, they are mandatory. This rule has been enunciated by the United States Supreme Court as follows: "The conclusion to be declared from the authorities is, that where power is given to public officers.... whenever.... individual rights call for its exercise --- the language used... is in fact peremptory." (citing *Bd. Of Supervisors v. United States ex rel. State Banks*, 71 U.S. (4 Wall) 435, 446-47, 18 L.Ed. 419 (1867)). ****

When our Supreme Court held that S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 to be Constitutional the State promised it was prepared to provide specific treatment to those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 and not to simply warehouse those committed. The State assured our Supreme Court that as the population increased, plans existed to increase the staff proportionately and that a committed person would be discharged as soon as his or her dangerousness or mental disorder abated. As noted, it was presumed good faith on the part of the Legislature; the State is clearly obliged under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 to provide care and treatment to those determined to be sexually violent persons. South Carolina's Statute § 44-48-110 does contain restrictive procedural time limits and they acknowledge that these time limits may cause administrative difficulties. **HOWEVER**, our Supreme Court accepted the State's affirmation that it was "prepared to provide specific treatment to those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170 and not simply warehouse them" and that the Legislature would "proceed in good faith and fund the treatment programs necessary for those committed under S.C. Code of Laws Ann. §§ 44-48-10 to 44-48-170."

HOWEVER, the Department of Mental Health through the Sexually Violent Predator Treatment Program took nearly two (2) years to provide Respondent with a reexamination that should have been conducted within one(1) year. Under the extreme state of affairs presented here and the prolonged Deprivation of Respondent's Liberty in Violation of the Strict Safeguards of S.C. Code of Laws Ann. § 44-48-110, Respondent's release is the only appropriate remedy.

CONCLUSION: *This Court should conclude that the one-year time limit of S.C. Code of Laws Ann. § 44-48-110 for an initial reexamination is mandatory and because of the egregious circumstances if this case, Plaintiff's release is necessary. Therefore the order of the Court of*

Common Pleas should be reversed.

The Respondent is informed and believes that the statute is to be interpreted to be any accumulation of material possessed violate the statute and the prescribed requirement in statute in § 44-48-110. Whether that is correct, and whether it is stated in mandatory language, this is the question before this Court? If the Court declares that the Plaintiff's interpretation is correct, then the question of whether an individual can be subjected to the multiple violations carried out by the Department of Mental Health, The State of South Carolina and The Attorney General's Office.

Issue Two

Ineffective Assistance of Counsel and Violation of DR-6-101 for First Court Appointed Counsel

In 2010, I was appointed Mr. George B. Bogel, Jr., as counsel. On the 10th day of September 2012, I informed Mr. Bishop that I had not been afforded the Statutory Right to South Carolina Code of Law Ann. § 44-48-110, and responded back to me that since I volunteered for this program that he was no longer my counsel. Then about 10 months later, he wrote that he found out that he was still my counsel. Then he started the process of getting this legal issue started. Then in July of 2013 he dismissed himself as counsel and I was given Mr. Brooks as counsel.

I charge Mr. Bishop with Ineffective Assistance of Counsel and Violating Dr. 6-101 for not filing Motions to have this legal issue brought into court for the State And the Department of Mental Health via the Sexually Violent Predator Unit for Violating the Law. [T]hey are in violation of violating the Statutory Right to South Carolina Code of Law Ann. § 44-48-110. Based on the forgoing Mr. Bishop is guilty of violating the State and Federal Constitutions for effective assistance of counsel. I have had my Constitutional Rights to Due Process and Equal Protection of the Laws under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State. I have been Denied my Statutory Right to the Annual Review Hearing since the 8th of September 2012 through the 5th of February, 2014 under the Statutory Right of South Carolina Code of Law Ann. § 44-48-110.

Issue Three

Ineffective Assistance of Counsel and Violation of DR-6-101 for First Court Appointed Counsel

I notified Mr. Brooks of *"The State and The Department of Mental Health via The Sexually Violent predator Unit are and have been in Violation of the Statutory Law South Carolina Code of*

Law Ann. § 44-48-110, since the 8th day of September 2012, when I first received him as counsel and he did nothing to Prosecute this Legal Issue. [H]e stated to me that I needed to get together with the Resident's in here and file a Class Action Suit on this Legal Issue. Yet, he would do nothing about it, even though [H]e is my counsel. Thus Mr. Brooks is guilty of Ineffective Assistance of Counsel and Violating Dr. 6-101.

As stated in Issue Two I also charge Mr. Brooks, with Ineffective Assistance of Counsel and For Violating Dr. 6-101. On the 18th of January 2014 I talked to Mr. Brooks on the phone and we discussed me Waiving the Annual Review Hearing, and at that time I agreed to this. "Yet," on the 19th of January 2014, I wrote to Mr. Brooks and Mr. Bogel and stated that I did not want to waive my Annual Review Hearing, and that in the Voluntary Committal Transcript, Judge Dennis stated that I could attend and Mr. Bogel "agreed."

Now on the 4th of February 2014, Mr. Brooks, sends to me this "Consent Order Waiving Annual Review Hearing", after I wrote to [T]hem and stated that I did want my Annual Review Hearing's.

Looking at this "Consent Order Waiving Annual Review Hearing", they are trying to waive all of my hearings since I came to this program. Looking at "Issue One" and at the Statute this is not stated that this can be done thus *"The State and The Department of Mental Health via The Sexually Violent predator Unit are and have been in Violation of the Statutory Law South Carolina Code of Law Ann. § 44-48-110, since the 8th day of September 2012."*

I do not agree to waive both of my Annual Review Hearings from September 8th, 2011 through July 13th, 2013. I was not told this by Mr. Brooks nor did I see this order before Mr. Brooks signed it, when I told [T]hem that I did not wish to waive my Right's to my Annual Review Hearings.

I charge Mr. Brooks with Ineffective Assistance of Counsel and Violating Dr. 6-10, for not filing Motions to have this legal issue brought into court for the State And the Department of Mental Health via the Sexually Violent Predator Unit for Violating the Law. [T]hey are in violation of violating the Statutory Right to South Carolina Code of Law Ann. § 44-48-110. Based on the forgoing Mr. Brooks is guilty of violating the State and Federal Constitutions for effective assistance of counsel.

I have had my Constitutional Rights to Due Process and Equal Protection of the Laws under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State. I have been Denied my Statutory Right to the Annual Review Hearing since the 8th of September 2012 through the 5th of February, 2014 under the Statutory Right of South Carolina Code of Law Ann.

§ 44-48-110.

Issue Four

I do not agree to Waive both of my Annual Review Hearings from September 8th, 2011 through July 13th, 2013. I was not told this by Mr. Brooks nor did I see this order before Mr. Brooks signed it, when I told [T]hem that I did not wish to waive my Right's to my Annual Review Hearings.

I have had my Constitutional Rights to Due Process and Equal Protection of the Laws under S.C. Const. Article I, Section 3 and under the U.S.C.A. Const. 6th and 14th Amend., by my Counsel and the State. I have been denied my Statutory Right to the Annual Review Hearing since the 8th of September 2012 through the 5th of February, 2014, under the Statutory Right of South Carolina Code of Law Ann. § 44-48-110.

PRAYER

I PRAY, that this Court will Grant this Motion to Dismiss the “**Consent Order Waiving Annual Review Hearing,**” and grant me the relief that I seek. I seek to have both or one of my Annual Review Hearings guaranteed to me through the Statutory Right to the Annual Review Hearing of South Carolina Code of Law Ann. § 44-48-110.

If so, a justifiable controversy exists, needing further analysis if a statutory violation occurred and administration of the appropriate relief pursuant to S.C. Code of Law Ann. §§ 15-53-10 to 140.

Wherefore, based upon all of the forgoing, the Respondent moves this Honorable Court for an Order of Declaratory Judgment to answer the questions posed. The Respondent then asks for Prospective Relief and Injunction to correct the unlawful restraint of this Respondents Constitutional Rights and Protected Liberty Interest to the Privileges and Immunities of citizens of this State and the United States under this Constitution *shall not* be abridged. *Nor shall* any person be deprived of *Life, Liberty,* or property *Without Due Process of Law, nor Shall any Person be Denied the Equal Protection of the Laws.* The Respondent *Has Been Denied* this by the actions of the Attorney Generals Office and The State of South Carolina for allowing this *Injustice* to continue. The State and the Attorney Generals Office are suppose to protect us from this *Injustice* by Due Process of the Laws.

This The Respondent Humbly Prays

On this 6th Day of February, 2014, It Is So Moved.


Michael E. Hamm
7901 Farrow Road

EXHIBIT FOUR

[SEE ISSUE THREE]

EXHIBIT FIVE

Karen V. Andersen, RMR, CRR
Official Court Reporter
3592 Somerset Hills Court
Mt. Pleasant, SC 29466

INVOICE

Date: June 17, 2014


Re: State of South Carolina vs. Michael E. Hamm

To: Michael Hamm

This is to acknowledge that on June 17, 2014, I received your request for the transcript of record in the above matter. The transcript is estimated to be 24 pages. Rule 607 provides the rate of \$3.25 per page for the original transcript at regular delivery (within 60 days); plus \$5 shipping and handling. To order the transcript, please provide payment to the above address in the amount of \$83 to place your transcript in line for processing.

If you have any questions or concerns, feel free to contact me at kandersen3592@yahoo.com

Thank you!



Karen Andersen, RMR, CRR

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH

INVOICE VOUCHER

5/2

Organizational Component Originating Voucher

Payee SOUTH CAROLINA COURT OF APPEALS			Social Security No.		Vendor No.
P.O. BOX 11629			Dates of Service		Contract No.
			FROM	TO	
COLUMBIA, S.C. 29211					Encumbrance No.
INVOICE DATE	INVOICE NUMBER	REASON FOR EXPENDITURE	MM DD YYYY	MM DD YYYY	INVOICE AMOUNT
08/15/2014		RE: MICHAEL HAMM/2498			\$ 100.00
		PERSONAL FUNDS TO FILE COURT DOCUMENTS			
		EGS			
					\$ 100.00
GL ACCOUNT	COST CENTER	FUNCTIONAL	FUND	AMOUNT	<div style="text-align: right; margin-bottom: 10px;"> APPROVAL SIGNATURE </div> <div style="text-align: right; margin-bottom: 10px;"> 8/15/14 DATE 8-15-14 </div> <div style="text-align: right; margin-bottom: 10px;"> BB 3005593299 DOCUMENT NUMBER </div> <div style="text-align: center; margin-bottom: 10px;"> It is hereby certified that the items represented in this voucher were authorized and this amount is approved for payment. </div> <div style="text-align: right;"> (For Finance's Use ONLY) </div>
2400040000	J120000010	J120_UNBD	60000002	\$ 100.00	
				100.00	