

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

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NOV 14 2014

SC Court of Appeals

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

Appellant.

RETURN TO APPELLANT'S MOTION TO HOLD APPEAL IN ABEYANCE

Appellant asks the Court to hold the above captioned appeal in abeyance. Respondent opposes the Motion for the reasons set forth below.

1. As a threshold matter, Appellant's assertion Respondent is deliberately interfering with his access to documents required to file an appropriate Record on Appeal is patently false. Employees of the S.C. Department of Mental Health are not controlled by the Attorney General's Office, and are not authorized to act as "agents" of the Office. No one from the Attorney General's Office, or acting on its behalf, is involved in disciplinary matters at the Department of Mental Health Sexually Violent Predator Treatment Program, or played any part in whatever occurred with Appellant on October 23, 2014.

2. On October 10, 2013, this Court ordered Office of Appellate Defense to represent Appellant in this appeal. On October 20, 2013, Appellant moved to alter that Order, stating he "objects and refuses for cause to accept the appointment of un-solicited (sic) counsel," and threatening to "file suit against any attorney who attempts to represent" him. By Order filed November 7, 2013, this Court allowed him to proceed *pro se*.

3. Appellant received the Initial Brief of Respondent and Respondent's Designation of Matter to be Included in the Record on Appeal in mid-August 2014. Thereafter, Appellant filed a reply to Respondent's Initial Brief. He also took the time to prepare and file a second supersedeas motion and a reply to Respondent's Return to that motion.¹

4. Rather than using his time to compile a proper Record on Appeal including the documents Respondent designated, Appellant submitted one on September 11, 2014, containing only the matter he designated. As a result, Respondent was unable to prepare the final brief, and was forced to file a motion to require Appellant to file a proper Record on Appeal. The motion, which included a list of the specific documents Appellant omitted from the Record on Appeal, was filed and served on September 18, 2014. Therefore, Appellant was aware of the Respondent's designations in August, and knew in September which specific documents were omitted, but apparently made no effort to gather the documents prior to October 23, 2014.²

5. As evidenced by the Affidavit of Holly Scaturro, attached hereto as Exhibit A, the confiscation of the Sexually Violent Predator Treatment Program residents' computer materials was related to safety and treatment issues, rather than any effort to deprive

¹During the pendency of this appeal, Appellant previously sought supersedeas in this Court as well as the South Carolina Supreme Court, and both courts denied his petitions.

²Perhaps Appellant was too focused on matters involving other residents to pay appropriate attention to this appeal.

residents of materials necessary for legal proceedings and treatment. All residents, including Appellant, can request copies of necessary materials, and the Treatment Program staff will accommodate the request as expeditiously as possible. Some residents have already requested materials, which have been provided to them.

6. Having **demanded** to proceed *pro se*, going so far as to threaten legal action against any attorney attempting to represent him, Appellant assumed the responsibility of complying with the Appellate Court Rules, including preparation of a proper Record on Appeal. As evidenced by Exhibit A, Appellant has reasonable access to any of his computer files necessary to perfect his appeal, and need only provide Treatment Program staff with a list of the necessary documents.

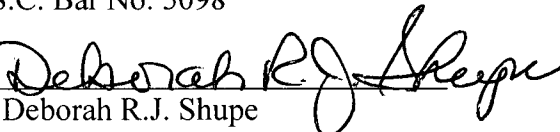
7. Respondent does not oppose a reasonable extension of time for Appellant to prepare the Record on Appeal, but vigorously opposes holding the entire appeal in abeyance indefinitely until Appellant decides to actively work toward resolution of this matter rather than blame everything on Respondent and the South Carolina Department of Mental Health. Appellant continually raises issues and allegations totally unrelated to his appeal in an effort to paint Respondent as a villain and himself as a victim, which has already required the unnecessary expenditure of resources and extended this appeal for well over a year.

Based on the foregoing, Respondent submits Appellant's Motion to Hold Appeal in Abeyance should be denied, and a definite date for filing a properly compiled Record on Appeal be set.

Respectfully submitted,

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General
S.C. Bar No. 5098

BY: 
Deborah R.J. Shupe

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3797

ATTORNEYS FOR RESPONDENT

November 14, 2014

EXHIBIT A

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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IN THE MATTER OF THE CARE AND TREATMENT OF
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Appellant.

AFFIDAVIT OF HOLLY H. SCATURO

PERSONALLY APPEARED BEFORE ME Holly H. Scaturo who, being duly sworn,
deposes and states as follows:

1. My name is Holly H. Scaturo. I am a citizen and resident of Richland County, South Carolina.
2. I am over the age of eighteen (18) and am competent to give this affidavit. Unless otherwise stated, each statement contained herein is of my own personal knowledge.
3. I am the director of the Sexually Violent Predator Treatment Program (the "SVPTP"), which is administered by the South Carolina Department of Mental Health ("SCDMH") and located on the grounds of the Broad River Correctional Institution in Columbia.
4. This affidavit is submitted in response to matters raised in response to the confiscation of floppy disks by residents and the temporary discontinuance of computer use by residents.
5. SCDMH previously afforded computer use by residents of the SVPTP as a

privilege. Residents were permitted to use computers to prepare their written assignments in such a way that their writings could easily be reviewed by staff. The ability to prepare other documents, including legal ones, was an incidental privilege.

6. Upon their admission to the SVPTP program, each resident, including Appellant, was provided 3.5-inch floppy disks upon which to store their written assignments and other documents. All work was to be saved on these disks. However, in October 2014 it was discovered that residents had been saving materials to the computer hard drives and creating hidden files in violation of SVPTP rules. This allowed for materials to be easily passed from one resident to another, which is prohibited for safety reasons and to ensure the integrity of the clinical treatment, including preventing the distribution of clinically contraindicated material.

7. In addition to saving materials on hard drives, several residents were found to have been violating SVPTP computer policies in other ways. The following is a nonexclusive list of examples:

- a. A resident was found to have created unauthorized “therapy” materials and to have distributed them to other residents without permission. This resident’s materials were found in the possession of numerous other residents (either in hard copy or on their floppy disks).
- b. A resident was found to be in the possession of material belonging to or related to thirty (30) other residents.
- c. Two residents were discovered to be sending disks to each other via the mail in violation of SVPTP rules. The disks contained inappropriate material, including a story written by a third resident that contained explicit scenes of rape and sexual torture. Copies of this “novel” had previously been taken from the resident with instructions not to share it.
- d. A resident was found to be in possession of several disks containing hundreds of pages of sexually explicit and paraphilic material.
- e. Many residents were found to have been storing inappropriate materials on their disks. Examples include sexually explicit stories, copies of other residents’ assignments/writings, resident rosters, legal material belonging to other residents,

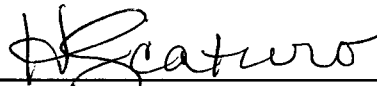
and fantasy role-playing materials.

8. As a result of the abuses of computer privileges by SVPTP residents summarized above, I made the decision to suspend the residents' computer privileges and confiscate their floppy disks until further notice.

9. Following the confiscation of their floppy disks, all residents were informed they could submit a request for the printing of any materials they needed from their disks. Several residents have submitted such requests, and staff have printed the requested materials in a timely manner. Appellant remains free to request the printing of any appropriate materials from his disks, including legal documents.

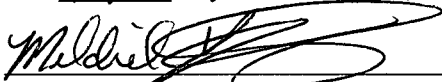
10. The suspension of Appellant's computer privileges and the confiscation of his floppy disks was for the reasons discussed herein.

FURTHER AFFIANT SAYETH NOT.



Holly H. Seaturio

Sworn to and subscribed before me
this 14 day of November, 2014.



Notary Public for the State of South Carolina
My Commission Expires: July 1, 2018

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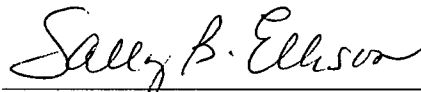
PROOF OF SERVICE

I, Sally B. Ellison, certify I served Respondent's Return to Appellant's Motion to Hold Appeal in Abeyance on Appellant by depositing a copy in the United States mail, postage prepaid, addressed to:

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

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

This 14th day of November, 2014.



SALLY B. ELLISON
Legal Assistant

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



ALAN WILSON
ATTORNEY GENERAL

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VIA HAND DELIVERY

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

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

Dear Ms. Kitchings:

Enclosed for filing are the original and two (2) copies of the Return to Appellant's Motion to Hold Appeal in Abeyance, with proof of service, in the above-referenced appeal.

Sincerely,

Deborah R.J. Shupe
Senior Assistant Deputy Attorney General

DRJS/sbe
Enclosures

cc: William Deans (w/ enclosure)
Victim Services (w/ enclosure)