

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM HORRY COUNTY
Clifton B. Newman, Circuit Court Judge**

Appellate Case No: 2014-000235

**IN THE MATTER OF THE CARE AND TREATMENT OF KEVIN NIXON,
APPELLANT**

INITIAL BRIEF OF APPELLANT, KEVIN NIXON

Charles T. Brooks, III
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Attorney for Appellant
Kevin Nixon

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SC Court of Appeals

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TABLE OF AUTHORITIES

Cases:

In Re McCoy, 602 S.E. 2d 58, 360 S.C. 425

STATEMENT OF THE CASE

Kevin Nixon (hereinafter referred to as Appellant) is a patient of the South Carolina Department of Mental Health (SCDMH) and housed in their Sexually Violent Predator (SVP) Program. On October 23, 2007 the Appellant was committed, after adjudication, to the custody of SCDMH and their SVP Program. On January 27, 2014 a review hearing in the Appellant's case was held before the Honorable Clifton B. Newman. The Appellant was granted a Post Commitment Trial based on the findings of the Annual Review Hearing in this matter. At the conclusion of the Post Commitment Trial the Appellant was found by a jury to still be a danger and his commitment to the State was continued until such time as the Appellant is re-evaluated by SCDMH.

ISSUES OF LAW

- I. DID THE TRIAL COURT ERR WHEN IT DID NOT GRANT THE APPELLANT RELEASE FROM THE CUSTODY OF THE STATE AND SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH?**

ARGUMENT

APPELLANT IS ELIGIBLE FOR RE-EVALUATION IN THIS MATTER.

The Appellant was last evaluated in this matter by the staff of SCDMH on November 5, 2013 and is therefore due to be evaluated again to determine his eligibility for release from the SVP Program within SCDMH.

ANALYSIS

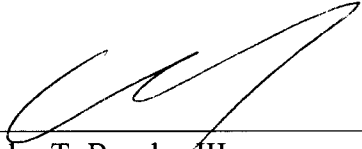
Counsel in this matter has conducted a full review of the record and has considered the facts and legal issues in the case.

Based upon the above analysis, counsel is of the opinion that Nixon has no arguable grounds for appeal in this case. Therefore, in accordance with the requirements of *In Re: McCoy*, this appeal has been noted and Nixon will have his opportunity to file his *pro se* supplemental brief to raise those arguments he deems appropriate.

CONCLUSION

Counsel has reviewed the record and concluded that Nixon is eligible to be re-evaluated at present and will be afforded a new opportunity for review in this matter. In accordance with the requirements of In Re McCoy, 602 S.E. 2d 58, 360 S.C. 425, counsel has reviewed the facts and legal issues in the case. It is counsel's opinion that there are no arguable grounds for appeal in this case. Counsel will further submit his Motion for Relief as Appellate Counsel in this matter. A copy of the Motion and of this Brief has been served on Appellant.

RESPECTFULLY SUBMITTED



Charles T. Brooks, III
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ATTORNEY FOR APPELLANT

12/12, 2014

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM HORRY COUNTY
Clifton B. Newman, Circuit Court Judge**


Appellate Case No: 2014-000235

IN THE MATTER OF THE CARE AND TREATMENT OF KEVIN NIXON,
APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certified that this Initial Brief and Designation complies
with Rule 208 and Rule 228, SCRAP.

10/11, 2014



Charles T. Brooks III

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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Honorable Clifton B. Newman, Circuit Court Judge

Appellate Case No.: 2014-000235

In the Matter of the Care and Treatment of

Kevin Nixon

PROOF OF SERVICE

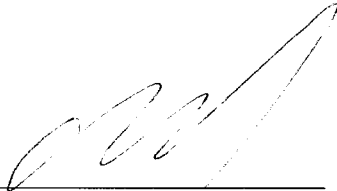
I, the undersigned, do hereby certify that on this 14th day of ~~October~~^{November}, 2014, I served the foregoing **Initial Brief of Appellant, Designation of Matter to be included on Record on Appeal, Certificate of Counsel and Motion to Withdraw as Appellant Counsel (Appeals Only)**, as well as **Proof of Service** in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on November 14, 2014, addressed to the following as indicated below:

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

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

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

Dated: November 14, 2014



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SC Court of Appeals

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November 14, 2014

The South Carolina Court of Appeals
Attn: Jenny A. Kitchings, Clerk
Post Office Box 11629
Columbia, S. C. 29211

RE: In the Matter of the Care and Treatment of
Kevin Nixon, Appellate Case 2014-000235

Dear Ms. Kitchings:

Please find enclosed herewith the following documents for filing in the above matter;

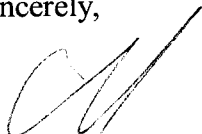
1. Initial Brief of Appellant
2. Designation of Matter to be Included on Record on Appeal
3. Certificate of Counsel
4. Motion to Withdraw as Appellate Counsel and
5. Proof of Service

Please file these documents and return any additional copies to my offices for my records. By copy of this letter and the enclosed documents I am notifying all interested parties of the filing of these documents, as appropriate.

Please advise if you need anything further in this matter.

With kindest regards, I am

Sincerely,



Charles T. Brooks, III
CTB,III/jlm

Enclosed as stated

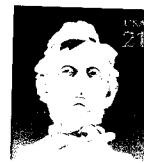
cc: Kevin Nixon

Deborah R. J. Shupe, Esq

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South Carolina Court of Appeals
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