

Dec 23
July _____, 2013

Clerk, South Carolina Court Of Appeals
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Columbia, SC 29011

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SC Court of Appeals

Ref: In The Matter Of Care And Treatment Of
William Deans, Appellant Case No: 2013-000879

Dear, Mrs. Kitching,

Please find inclosed for filing Appellants 3d Amended Initial Brief and ~~Purposed Designation of Matter~~
AS STATED Before on Motion For Rehearing of Appeal. Respondents confiscated Appellants
Legal computer Disk / and did not make the enclosed copies until 12-19-14

Respectfully,

William Deans

*Please clock stamp Appellants copy of cover sheet of
Proof of Service I can not afford to full copy being
mailed.*

*Thank you
W. Deans*

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM ANDERSON COUNTY
Court Of Common Pleas, 04th Judicial Circuit

J.C. Nicholson, Circuit Court Judge

Case No: 2013-00879

State Of South Carolina.....Respondent,

v.

William Deans.....Appellant.

3d AMENDED FINAL; BRIEF OF APPELLANT

With Court Ordered Supp ROA Reference

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STATEMENT OF ISSUES ON APPEAL

I

Did the lower Court err by refusing to have a South Carolina Code of Law 44-48-110 Status Of Case Review prior to conducting a claimed 44-48-110 Annual Review Hearing

II

Did the lower Court err by refusing to have a Evidentiary Hearing as requested by (respondent)

STATEMENT OF CASE

Supp ROP 108

This matter arose, when Appellant, pro-se who being civilly committed in 7-17-2004, attended 2/13/12 presumed SCC Ann. 44-48-100 Annual Review Hearing, before his Honor J.C. Nicholson who opened by first reading the States Annual Review Report, Dr. Domino of 12/18/13.

When allowed to speak, Appellant stated he had a number of un-addressed motions before the Court, being Motion To Schedule a Evidentiary Hearing and a request for a Status Review Of Case Hearing.

The Court stated it was not hearing any such motions, that this was a Annual Review Hearing only.

Appellant stated: "I requested for a Status Of Case Review. ROP, 33, ROP 52 L 19-20, L22-23
ROP TR 56 L 17-19

The Court stated again it was not hearing any such motions even though Appellant had given fair notice and submitted these motions months ahead of the hearing. ROP 30-32 / 33

Appellant had timely filed for a Evidentiary Hearing to challenge the States bogus evidence which would be provided to the States expert who would examine this Appellant for the States Report to the court to determine whether probable cause exist to whether Appellant had so changed to be released at large. ie: order a trail be held on the merits.

The states examiner would then produce for the court a second level bogus examination report, prejudicing Appellant into not receiving a fair review. ROP TR 86-93

The Court refused to schedule such a evidentiary hearing, that in turn caused a complete brake down of communication between the parties with Appellant attempting to show it was a waste of time to appoint an independent that the curt was ready to appoint Appellant a defense examiner who would be in turn given the same bogus information, and the Court believing Appellant did not understand the purpose of the hearing which was for an SCC Ann. 44-48-110 Annual Review.

(only)

WD
4

note: complete brake down of communication means in this context, Appellant had to argue with the Court which refused to listen or allow Appellant to speak on any subject other then annual review issue.

Appellant did get the point across that the State has refused to provide (SVP) treatment to Appellant for which he was civilly committed to/for, instead the State holding Appellant civilly committed since July 2004 for custodial criminal interrogation attempting to force Appellant into admitting guilt to out of State dismissed criminal charges and uncharged allegation.

After much confusion, the Court took the initiative to issue an injunction, enjoining the State , SCDMH from interrogating this Appellant in the form of a basic gag order not allowing the parties to discuss the said out of State dismissed charges and un-chargd allegations. *Rep 3-5*

As follows Appellant argues the Court refused to permit Appellant to confront the State evidence or witness, with the Court ordering a denial of relief based on the report.

(herein Appellants Record On Appeal, R.O.p. ⁸⁶⁻⁹³, of a un-qualified, highly defective review, that during the proceedings (the review) was actually discredited by the court.

Appellant asserts and blames the Court for causing Appellant to having been prejudiced out of a fair annual review hearing when the Court refused to schedule a Evidentiary Hearing, or a SCC

Ann. 44-48-110 "Status of Case Review" prior to any hearing of probable cause./ annual review.

During the 2/13/13 hearing the Court kept asserting the purpose of the hearing was requiring Appellant to show how he has so changed, and admonished Appellant for trying to address treatment issues. when finally the Court refused to speak to Appellant.

There is three basic issues address in this appeal,

#1. the denial of hearing motions for.

a) Evidentiary Hearing / to challenge information on Appellant that is ut dated, 99% false, twisted, incorrect, and this being not for what this Appellant claims but to what the documented information provided to the SC Dept Mental Health by the State Attorney Generals Office SVP unit.

2. Status Hearing / for the impossibility of Appellant to take or advance through a SVP treatment Program which has held appellant civilly incarcerated for interrogated only.

In the jest of treatment program / requires Appellant to admit guilt to any criminal charges, convictions, dismissed charges or allegation, un-charged allegations, hear say notes made by any person, or state official opinion, and to any belief or communication thereof by the case managers.

Example of the most extreme belief: Ms. Hasi White, Appellants 3d or 4th case manager / SVP therapist, a person from Trinidad, was raped by her father at the age of 12 as a custom or right of passage. So, it was Ms. Whites belief that all fathers raped their 12 year old girl children.

Ms. White then persisted that Appellant admit guilt to such an event because that was her belief.

All past therapist persist in requiring Appellant to admit guilt to dismissed out of State criminal charges. And, just the same Appellant has refused to admit guilt, and faces a life sentence of civil commitment for doing so.

whereby, by not admitting guilt to the dismissed charges the SCDMH and states examiners report in this and all past annual review reports to the court that Appellant is refusing to take SVP treatment.

Then based on these negative reports / all past review courts and court subject of this appeal have denied relief.

The Court kept telling Appellant it did not want to hear about an 10-/20 year old issues, Appellant argued that he is being held to theses 10/20 year old issues by the State of SC and has every right to challenge any in-correct information the State is using to keep Appellant civilly committed to.

This includes the States 2012 expert (Dr. Domino) used at the 2/13/13 annual review hearing subject of this appeal, *ROP Tr 86-93*

noting in Dr. Domino's report that Appellant own 2004 civil comment trial defense expert recommended appellant be civilly committed, when in fact in 2007 this exact defense expert, a Dr. Berg admitted she rigged her report against (respondent) appellant at the order to do so by an assistant Attorney General.

Appellant further argued that the State had violated the 2004 court having sealed the Dr. Berg report / by giving the Dr. Berg report to Dr. Domino. *ROP^{Tr} 56 L 7-16, ROP 108*

Appellant does not challenge (the Dr. Berg) report, Appellant challenges the lower Courts error in not having a Evidentiary hearing where such issues could have rightfully been made.

And subject of the intended evidentiary hearing Appellant would have show there are no sexual or other wise SVP qualified case managers / ie: therapist assigned to this appellant in the last ten years of civil commitment being approximately thirteen '(13-14) case mangers who's information in turn Dr. Domino used as references in compiling her annual review report.

Example: The State claimed / and was reported in the States expert witness annual review report that Appellant was not even participating in treatment:

answer not so, Appellant had attended over 88 weekly group sessions / which includes assignments and testing before the 2/13/13 hearing.

The court again refused to allow Appellant to explain this or any other issue excepting the States 10 year long interrogation of this Appellant into admitting guilt to out of State dismissed allegations, even though Appellant had contradicting information against the present Dr, Domino's report and that Dr. Domino's contradicted her own report.

The most telling fact thus far documented in this case for Appellant is the SC Dept. Mental Health General Counsel, Attorney Carter testifying that for the Court enjoining the State from interrogating Appellant any farther makes the purpose of the civil commitment moot.

Rep 12-14

And #3.

The court gave the states @44-48-110 examiner, a Dr. Domino written report absolute deference, when in fact Dr. Domino did not at tent this hearing to be qualified nor explain the science she professed

As follows Appellant attempts to put fourth an appeal based on the reserved issues of legal merit in the shortest to the point context.

Appellant does not expect this Court to even begin to comprehend appeal issues addressing a fictional program that in turn bases it's findings on fictional presudo medical assertives, made by un-qualified social workers which in turn the State attempts to argue as actual legal issues.

Appeal is as follows:

Argument

1. The Court erred by stating in its Order of Denial Of Annual Review claims that the Court held a SCC. Ann. 44-48-110 Annual Probable Cause Hearing.

see Record on Appeal, (R.O.p.) ³⁻⁵ Order Of Denial Of Annual Review, specifically: at R.O.p. 3 paragraph 1, ln 15, 3d paragraph 1-5

a) Appellant asserts that no SCC Ann. 44-48-110 Probable Cause / Annual Review Hearing was held. ^{36-85~}
See R.O.p. ~~34-83~~

In open Court on 2/13/13, Appellant stated he had filed a demand for a SCC Ann. 44-48-110 "Status Review Of Civil Commitment" hearing prior to a Probable Cause Hearing. R.O.p. ^{Tr 52} ~~50~~ ln 19-23 / R.O.p. 21 ln 17-19 ^{Tr 56 LN 17-19}

see Record on Appeal, Appellants R.O.p. ⁹⁴ ~~92~~, SC Dept. Mental Health SCC Ann. 44-48-110 Notice of Annual Review, at subsection B states (appellant) "I demand a Status Hearing WD"

SCC Ann. 44-48-10 specifically states "shall,

b) The Court refused to allow Appellant to challenge the validity of Dr. Domino Annual Evaluation report. R.O.p. 26 ln 1-17 / ln 18-19 / R.O.p. ⁶² ~~60~~ ln 4-5, 6-7

c) The Court refused to allow Appellant to present documented evidence that he / the Appellant has so changed to be released from civil commitment. R.O.p. ⁴⁵ ~~43~~ ln / R.O.p. 44 ln 3

d) and, see R.O.p. ⁹⁴⁻⁹⁷ ~~92-95~~, Notice Of Right To an SCC Ann. 44-48-110 Annual Review Hearing, Appellant's R.O.p. ⁹⁵ ~~93~~, section I, and page 4, see R.O.p. ⁹⁷ ~~95~~ Appellants Notice of Reservation of Rights, putting the State and the Court on Notice pursuant to UCC 1-207. of Appellants right to withdraw his signature upon a dishonor or change in purpose of the Notice by either the State or this Court.

e) the Court refused to allow Appellant to speak after Respondant;

#1. Appellant demanded a Evidentiary hearing.

#2. Appellant demanded a Status of Civil Commitment Hearing. R.O.p. ⁹⁴~~92~~

#3. the court gave the states SCDMH 2012 Annual Review Examinatin Report of Dr. Domino absolute

full and un-challenged d3ference Appellant demanded a Evidentiary hearing. R.O.p. ^{30-32, 39}~~38~~ ln 12-18

/ R.O.p. ⁴⁰~~38~~ ln 7 - R.O.p. ⁶⁴~~62~~ ln 7-11

Compare Sharp v Weston (No. C94-121WD) Senior District Court Judge William L. Dwyer of the

U.S.D.C. fr the Western District in Seattle, observed that

"Defendants argued that the deference to be afforded the decisions based upon accepted professional

judgment, practice or standards means that there should be virtually ^{on} ~~n~~ judicial review, stating:

"No one questions that Dr. Smith and Seling [SCC's superintendent and clinical director] are qualified professionals exercising their discretion"

""The inquiry should end there,'That is not the law, and such a view would eviscerate any protection

of constitutional rights. The Youngberg standard is intended to prevent a judge from using un-guided discretion to balance the individual's liberty interest against the State interest in restraining liberty, 'it is not meant to transfer the safeguarding of Constitution rights to mental health professionals."

""If mere expression of opinion by State-employed superintendent or psychologist were deemed conclusive, the constitutional standard would vanish; conditions of confinement would be upheld without scrutiny, and the ^{court}~~some~~ would depend on who happened to be in charge of a particular;lar program, with no consistency from State to State or even from one institution to another within a State""

Quoting: Youngberg v Rome 457 U.S. 307, 102 S.Ct 2452 (1982)

a) The foregoing quote (Youngberg standard) case is controlling authority and is used to demonstrate the near identical issue has been raised in their courts and that court did accordingly deny granting expert testimony absolute deference over Dr. Domino's own contrary testimony and the testimony of SCDMH General Counsel, that Appellant was not allowed by the court to argue R.O.p. ⁴⁵43 ln 11- R.O.p. ⁴⁶44 ln 13, R.O.p. ⁵³51 ln 23- ln 8.

2. Appellant raised Dr. Domino committed two documented acts of professional misconducts.

a) Dr. Domino references a court sealed prior evaluation R.O.p. ~~87~~ 89

b) On Dec. 2, 2011 the Honorable Judge R. Lawton McIntosh, signed and duly filed an order, commanding that Appellant shall be allowed to electronically record all mental examinations (by the State) of Appellant. R.O.p. 10-11

i) On 12/10/ 2012, immediately after Appellant did cassette Tape record, SCC Ann. 44-48-100 evaluation by Dr. Domino of Appellant, Assistant Attorney General Flores by/through PSO Capt Abney did confiscate said cassette tape of this 2012 evaluation and have since refused Appellant access to the tape for transcription or referencing at the hearing which is subject of this appeal.

ii) At the 2-13-13 hearing before Judge Nickolson, subject of this present appeal, Appellant was unable to present evidence from the cassette tape to dispute Dr. Domino's 2012 evaluation of Appellant. see R.O.p. ³⁶⁻⁸⁵34-83

Appellants argued the Dr. Domino 2012 report should be disqualified for prosecutorial misconduct

/ where the Attorney Generals Office confiscated the Court ordered Appellant's cassette tape recording of the Dr. Domino evaluation, which denied Appellant that taped evaluation as evidence at the 2-10-13 Annual Review Hearing. see R.O.p. 22-23

3. As reserved for appeal, the Court refused to have a Status of Case Hearing, see R.O.p. ⁵²50 ln 19-20, R.O.p. ⁵⁶54 ln 17. where Appellant had gave fair and timely notice of filing for a Evidentiary Hearing see R.O.p. ⁹⁴92 (I)(B).

4. In support of the foregoing, see R.O.p. ⁶³61, The State has with held until the following evidence showing the State has no reason to hold this Appellant other then for interrogation, which is the subject of this Court's Order Enjoining the State from questioning Respondent of out of State dismissed and un-charged alleged crimes. *Rep 12-14*

see R.O.p. ⁹⁸96, "SCDMH, SVPP Master "Treatment Plan". dated 10/15/12, Coals Clinical I; History, Measurable Treatment Objectives 1,2,3.

This treatment plan documents the State requiring Appellant to admit guilt ie: in treatment terms, means "Appellant is required to take responsibility for all allegations" being, hearsay, un-charged, dismissed, bogus allegations not even in Appellants proper name.

¹⁰⁴⁻¹⁰⁶ See R.O.p. 102-104, section Two, is Appellant's "Input", and R.O.p. 107 is Appellants Notice of 5th Amendment Rights being Exercised.

Note: On 10-15-12, Appellant attended a "Master Treatment Plan" "treatment team interview. This is where a Dr. Gothard advised Appellant to admit guilt to the out of State dismissed charges and un-charged allegations, being it would make Appellant..." feel better..." and she did not think the State would bring criminal charges since Appellant was in the SVPTP.

Appellant raised this matter to the court which in turn enjoined the State / SCDMH from interrogating (Appellant) any further. R.O.p. ⁷³71 - R.O.p. ⁷⁶74

5. Judge Nickolson erred in making a conclusionary presumption by stating that since Appellant had not finished the SVPT Program, that Appellant must stay civilly committed until [he] has finished the program. R.O.p. ⁶²61 ln 4-6, R.O.p. ⁶⁰58 ln 4-10

The Court erred by raising the Appellant's burden of proof because there is no such thing as finishing the present SVPTP Rockwood Model Program which effectively gives Appellant a life sentence, R.O.p. ⁵¹49 ln 22 - R.O.p. ⁵²50 ln 2-17.

Step / Model

Note: Appellant was civilly committed to a 12 sep program and near automatic recommended for release, where-by the present Ex-post facto "Rockwood Mdc;" is an observational / reward / punishment ordinated program has no real beginning nor end, which was ironically approved and implemented under the direction of the SC Attorney Generals Office,

TR 65-23-5

But yet SC Assistant AG Flores at R.O.p. ~~63~~ In claimed "we" I hate to stand here before the court and tell you. I'm not exactly sure what the treatment program is".

6. The Court erred in not applying the States evidence that was submitted to the Court challenging the denial of relief and Injunction issued upon the 2/13/13 hearing.

R.O.p. ¹² ~~10~~-14, Nullifies all the States-claimed evidence, mainly being the 2012 Annual Review Report

by Dr. Domino, relied upon so heavily by the court.

36-85

The testimony given by the State R.O.p. ~~34-83~~, Attorney Mr. Flores is reputed by SCDMH General

Counsel, attorney Mr. Carter, who stated in a (see R.O.p. 12-14, "Motion For Relief From And Stay Of Order.

see page 2, paragraph 2, entitled RULE 62(b), STAY OF PROCEEDINGS, 7-9,

"Finally, although this form of order (injunction) is capable of repetition in this and other proceedings purportedly arising under there Sexually Violate Predator Act, this particular case may arguably be rendered "moot" if not immediately stayed.""

Mr. Carter's testimony discredited both Dr. Domino's evaluational and Mr. Flores claim that Appellant has not so changed to be released.

Attorney. Carter testified that with out being able to continue criminal type interrogating of Appellant about dismissed (out of State) charges and un-charged allegations, the State had no more reason to hold Appellant civilly committed.

6-9 NT 8

to

See Appellants R.O.p. 6 SCC Ann. 44-48-100 Petition t Civil Commit

The State made three claims,

#1. that Appellant had been convicted of a sexual offense.

#2. that in the commission of the sexual offense, Appellant committed cunnilingus, penetration, folaico, upon a minor child.

#3. that Appellant committed sexual offenses against another child.

History note,

ALFord

(1) Appellant was convicted after being refused a request for an ~~Affid~~ v NC Plea.

(2) that exculpatory evidence which was with held by the State in 1993, was discovered in 2000, medical reports proving it was an impossibility for Appellant to have committed the alleged crimes to which he was convicted of. And, that submitted police reports of said crimes were falsified claims.

Especially to have not committed the alleged acts of cunnilingus, penetration, folaico, upon a minor child. see R.O.p. 8 (B)(1-3) R.O.p. 18 ln 6-3

(3) (out of State) charges were dismissed, and all other allegations dismissed as not creditable, ^{AND} due to (other child) admitting she lied. And, (out of State) investigation proves the charging officer, Anderson County SC Sheriff Deputy Gene Sutton falsified her police report. R.O.p. ¹⁸ ln 2-12 _{8 B 2}

And again, it is what it is, Attorney Carter admitted the only reason for civil commitment is to interrogate Appellant. *Rep 12-14*

The SCDMH, Mr. Carter claims they have an invested interest in continuing the civil commitment of Appellant. *Rep 12-14*

WJD

What invested interest it is, Mr. Carter does not say, Appellant would say Mr. Carter is attempting to cover the States rear end after taking 10 years to finally come out and admit the State had no case from day one.

Appellant does not argue or appeal the original order of civil commitment, Appellant would show the claimed evidence relied upon by Dr. Domino is so tainted, it is near useless other than to show prosecution over reach.

Mr. Carter, Mr. Flores, the SCDMH, SVPTP, the Judge Nicholson Court of 2/13/13 failed to understand that this case was moot on Nov. 13, 2002, and nothing can be said or done to change that fact *ROP 9 Exhibits A-B IN Support of 9 A B see Supp ROP 109-256,*

The Court erred in not granting Appellants request for relief, when Appellant gave Notice Of Violation Of Court Order Enjoining the State from further Interrogation,

The court error on the side of caution when admittedly was confused on the validity of the states lack of witness to explain the defects in the Dr. Domino Annual Review Examination report R.O.p. ⁶⁹ln 18-23

When Appellant challenged the court for violating the law, ie: (Appellants rights to a fair hearing) R.O.p. ⁵⁵ln 9-19

the court stated it did not care R.O.p. ⁵⁵ln 19 "that would be fine"

see conclusion as follows,

Conclusion:

1. Appellant has shown he was not afforded a 44-48-110 Status of Case nor Annual Review Hearing by not being allowed to speak in objection to the States evidence and un-qualified expert and or on behalf of himself proving he has so changed to be released into society.

In support of this allegation, Appellant would show the lower court cut (Respondent) off from speaking at least (2) times out of the times Appellant spoke. R.O.p. ⁵¹49 In 1-2, ⁸⁻⁹89, 12, R.O.p.

⁵⁵53 In ⁹8, R.O.p. ⁵⁶54 In 2, R.O.p. ⁵⁹57 In 12-13, R.O.p. ⁶¹59 In 5, R.O.p. ⁶²60 In 9, 17, R.O.p. ⁶⁴62 In 12, 20

2. Appellant has shown the Court erred by giving absolute deference to the States examiner Dr. Domino, who the Court did not even bother to qualify, or to objectively question the experts un-founded conclusions. especially when a major portion of Dr. Domino's evaluation had been by that same court had enjoined from any further use by the SVPP / ther evaluators and apparently enjoined from being entered into the Record on Appeal, transcript see R.O.p. ³⁷35 and ³⁸36.

Appellant was not allowed to challenge the States expert reliance upon false, misleading, bogus, information, which included extremely prejudicial information of out of State dismissed charges that the Court after the fact of the State's expert examination was enjoined from referencing that information ever again.

This in-turn did away with 90% percent of the States original allegations as claimed in the states petition to civilly commit Appellant in 2002. see R.O.p. ⁶⁻⁹47 at p. ⁸8 (B)(2)(3).

3. Further proving extreme prosecution misconduct, that the State violated Court ordered 44-48-150, sealed documents by deliberately providing the States present 44-48-110 expert (Dr. Domino 2012) with what has been admitted to by the 2004 44-48-100 Dr.Berg, as falsified 44-48-100 defense experts evaluation of Respondant in 2004.

a) And, the State violated a Court Order granting Appellant the right to electronically record any 44-48-110 evaluations and to transcribe the recording by to which the Attorney Generals Office ordered the confiscating of the tape recording made of the Dr. Domino evaluation, by reference being the 2012 evaluation.

b) By confiscating the said Dr. Domino 2012 evaluation tape recording, denied Appellant the right to use the tape recording to re-butt the testimony of Dr. Domino before judge Nicholson on 2-13-13.

c) by with holding exculpatory evidence and then the State bare faced false statements in open Court, when the State refused to produce said evidence when ordered to do so by way of Court ordered Subpoena.

4. Appellant argues that he was denied a SCC Ann. 44-48-110 "Status Of Civil Commitment Hearing", and he was denied a "Annual Review Hearing",

5. Appellant has shown by documented evidence that the SCDMH admits that the only reason [they] are holding Appellant incarcerated past his criminal sentence release from prison date in August 2003, is so that the State / SCDMH can continue to interrogate Appellant, and demanding that he admit guilt to out of State dismissed charges and un-charged bogus allegations.

12-23-14
note: which continues even to today (~~7/14~~), see in this Court of Appeals records, "Appellants SCACR, Rule 221 Motion For Rehearing Of Motion To Lift Stay of case / ie: Supersedes.

6. Appellant argues the Court abused it's discretion by concluding that since Appellant had not finished the program, this constitutes the Courts denial of probable cause for release.

The problem with this ruling is it violates 44-48-110, legislatures intent was that the person should expect to be released if he has so changed to not be a danger to society / ie: through either a recommendation from the State and SCDMH or though a jury trial. ie: SCC Ann. 44-48-110

The Court enjoined The State and Dr. Domino from using a full 90% of the States reasoning (claimed evidence) in it's petition to civilly commit Appellant, ie: Petition at R.O.p. 6, subsection 6.8(a)(2.)⁸(B)(2.) ie: a +10 on the Static 99R scale.

The standard today is at least requires a 4 on the Static R99 to even qualify for SVP civil commitment,

Appellant is at a -2 (-3) on the States own Static 99R test.

This raises a paradox, if you can not civilly commit Appellant with these extremely low diagnosis in the first place, Then how could the Court find it reasonable to continue holding Appellant.

The other half of the States case has been admitted to as being moot by no other then the SCDMH General Counsel, Attorney Carter.

That leaves about zero reasoning other then for interrogation to continue holding Appellant in civil commitment, who's United States Dept. of Justice guild lines as referenced by all the named states experts,

Appellants average Static R99 is -2 (-3) which is admitted to by the Dr. Domino as a extremely low risk but some how which is un-explained as high risk ??

Quoting Delaware v Van Arsdall 475 U.S. 673, 106 S.CT 1431 (1986), and Chapman v California 386 U.S. 18, at 21-24, 87 S.CT 824 (967)

"...the fundamental denial of fairness (due-process) caused by the use of totally un-supported presudo-scientific evidence. The error was definitely not harmless beyond a reasonable doubt.

This alone should be enough to apply to this case the jury charge of reasonable doubt as in SC vs Manning, -SC-, being, "Reasonable Doubt is a reason which causes a reasonable person to hesitate.

Removing 90% of the States case should cause hesitation.

The original States petition to civilly committed (appellant) was a score of (10) out of ten high risk in 2002 (static 99) / and is not so today, which appears to why and how Dr. Domino reached her f laud evaluation report, Dr. Domino admits in her examination that she relied almost entirely on 99% dismissed, bogus, discredited, enjoined / un-founded 10-20 year old 20th level hearsay information.

Judge Nicholson completely relied on Dr. Domino,

example: Dr. Domino gave Appellant a -2 Static 99R, which Dr. Domino obtained from the prior examinations and 90% information that the State is now enjoined by Judge Nickolson from using.

7. The key factor causing Appellant not to have received a fair Status or Annual Review hearing is the Court had refused to have a Evidentiary Hearing before the State / Dr. Domino produced (her) examination and Annual Review Report which was relied upon by the Court.

see Appellant R.O.p. 30-32.

"Respondants Motion For Evidentiary Hearing, filed Feb. 27, 2012. a full 361 ^{days} prior to the Feb. 13, 2013 Annual Review hearing.

R.O.p. 33 Respondants Motion For Prior Motions Be Moved TO The Hearing Docket For 2/13/13".

The Court refused to schedule or hear (Respondants) motion for a evidentiary hearing / to which Appellant argued through out the 2/13/13 hearing that the evidence being relied upon by the Court produced by the State and Dr. Domino was bogus / false/ discredited, not allowed.

The Court in turn failed to understand the implications of it's own ruling enjoining the State / SCDMH from discussing or using the out of State / un-charged allegations,

The Courts Injunction in turn canceled out the States / Dr. Domino Annual Review Report used by the Court to deny Relief at the Feb. 13, 2013 hearing, which is subject to this appeal.

This in turn shows the Court erred by failing to use subjective review of the Dr. Domino annual review report which is admitted to by the State as having zero offer of any evidence of dangerousness as required by the SVP statute and due-process. Pursuant to Billy Ray Tucker, South Carolina Supreme Court Opinion No. 25608 of 3/24/2003, puts the burden of proof upon this Appellant to show that he has so changed as safe to be release.

Tucker supra also requires the State to have shown it's evidence
See In re Treatment and Care of Luckabuagh 351 S.C 122, 568 S.E.2d 338 (2002)

"On review the appellate ^{Court} ~~court~~ will not disturb the hearing court's finding on probable cause unless found to be without evidence that reasonably supports the hearing court's finding."

Appellant has shown the evidence relied upon by the court was not substantiated, to which on the contrary, the state failed ^{to} show any evidence of dangerousness as required by SCC Ann. 44-48-110 (states expert witness), ie: R.O.p. ⁸⁶⁻⁹³ ~~84-92~~ showing verifiable clinically significant distress or impairment in social, occupational or other important areas of functioning pursuant to DSM-IV 528 (pedophilia criterion B)

Appellant has met his required burden of proof of having so changed by the states lack of evidence which constitutes a fatal defect in the diagnosis as evident by the court enjoining the states experts and therapist / SVP treatment program. R.O.p. ⁸⁴⁹¹ ~~8492~~ ⁸⁶⁻⁹³ *Rep 3-5*

Appellant is not required to disprove a diagnosis of dangerousness that does not exist in the first place ie: Harvey supra.

The state made no showing of dangerousness, nor not even a percentage in which for the court to ascertain t what degree the state claims Appellant to suffer, in other words, some risk of recidivism must be tolerated in balancing the need ^{For} public safety against individuals interest.

Quoting Kansas v Crane 122 S.CT at 870

"To shift the balance in the public's favor, there must be evidence that the offender has "a special and serious lack of ability to control behavior." What showing the state did attempted to show was in turn taken away by the court enjoining the state. *Rep 3-5*

The court error by failing to apply Tucker super^{KA} in obstacle being, the court required for Appellant to present direct evidence through opposing defense expert testimony.

That was not the case nor within the ability of a pro-se litigate,

Tucker did not say how or what method Appellant must follow to meet his burden of proof.

Appellant chose to lessen the burden by eliminating the false information that the state was holding him to, and showing he was less likely to re-offend,

The sum total is, between eliminating the bottom and top end, and add in the fact the states own witness Attorney Carter testified that if Appellant can not be interrogated / then this civil commitment case is a moot issue .

For the foregoing reasons, Appellant moves this Court as follows,

1. Order Appellant to be released.

Submitted by,

William Deans

William Deans
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Bldg. 3, 3d floor
Columbia, SC 29203

Dec 23
~~July~~, 2014

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM ANDERSON COUNTY
Court Of Common Pleas, 04th Judicial Circuit

J.C. Nicholson, Circuit Court Judge

Case No: 2013-00879

State Of South Carolina.....Respondent,

v.

William Deans.....Appellant.

PROOF OF SERVICE

I, William Deans, certify that I have served a "~~Amended Initial Brief Of The Appellant and
Designation Of Matter To Be Included In The Record On Appeal~~" and 3 Amended Initial Brief Of
Appellant, on Alan Wilson / Assist AG Mrs. Shupe , PO Box 11549, Columbia, SC 29211, by
depositing a copy thereof into the United States Mail, with postage prepaid by Appellant, as addressed
on ~~Feb 23~~ 2014

WD

Dec 23
~~July~~ 2014

William Deans

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