

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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NOV 19 2015
SC Court of Appeals

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

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

Appellant.

RESPONDENT'S RETURN TO MOTION

Appellant moved for an order essentially dismissing the pending appeal and mandating his immediate release from the Sexually Violent Predator Treatment Program. His Motion is premised on a purported circuit court order dismissing the underlying Sexually Violent Predator Act (SVPA) case. Respondent submits the basis for Appellant's motion is false, and Appellant is attempting to mislead the Court by attaching irrelevant documents.

Initially, Appellant attached to the Motion a "complimentary" copy of a 2002 Order dismissing the case on probable cause grounds, but failed to advise the Court the 2002 Order was subsequently vacated, and an order finding probable cause was entered. (Exhibit A attached hereto). Thereafter, the court appointed evaluator concluded Appellant met the criteria for commitment under the SVPA, and Appellant was committed after a jury trial.

Appellant then cites Clerk of Court records and correspondence for the proposition the underlying SVPA case has been dismissed. As evidenced by the Order attached hereto as Exhibit B, however, the circuit court did not "dismiss" the case in February, 2015. Rather, after an annual review hearing, the court found no probable

cause to believe Appellant was safe to be at large, and the Order specifically provides Appellant “continues under the jurisdiction of this Court.”

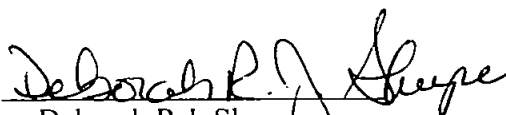
When a SVPA annual review is decided, the Clerk’s Office apparently changes the case status to “dismissed,” not “closed.” This status change simply removes it from the active case roster until a new annual review, or some other properly served pleading, is submitted. The civil action number remains the same, and the case remains open.

Appellant’s Motion again makes it abundantly clear he remains focused on perceived “legal” challenges to his SVPA commitment, rather than actively participating in treatment provided in the SVPTP. His assertions regarding the circuit court’s ruling and the status of the SVPA case are, at best, inaccurate. This appeal is fully briefed, after many delays, and is ready for the Court’s consideration. Appellant’s pending Motion should be denied in its entirety.

Respectfully submitted,

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General

BY: 

Deborah R.J. Shupe
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3797

ATTORNEYS FOR RESPONDENT

November 19, 2015

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

Appellant.

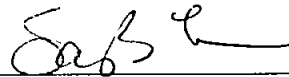
PROOF OF SERVICE

I, Sally B. Ellison, certify I served Respondent's Return to Motion 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 19th day of November, 2015.



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



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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

November 19, 2013

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 seven (7) copies of Respondent's Return to Motion, 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)

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

COUNTY OF ANDERSON.)
)
Plaintiff.)
)
v.)
)
WILLIAM O. DEANS.)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

A TRUE COPY

ORDER

NOV 12 2002

Cameron Phillips
CLERK OF COURT

Case No. 2002-CP-⁰⁴~~10~~-3343

1. The Order of this Court, signed November 1, 2002, finding no probable cause in the above-captioned matter is hereby withdrawn.
2. This Court hereby finds that probable cause does exist for the above-captioned matter to move forward.

IT IS SO ORDERED.

Anderson, South Carolina
11-7, 2002

J. C. Nicholson, Jr.
The Honorable J.C. Nicholson, Jr.
Presiding Judge

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CLERK OF COURT
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STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)
)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
WILLIAM DEANS,)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT
CASE NO. 2002-CP-04-3343

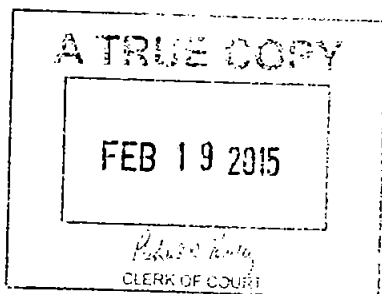
**ORDER DENYING TRIAL AFTER ANNUAL
REVIEW HEARING PURSUANT TO THE
SEXUALLY VIOLENT PREDATOR ACT**

This matter comes before the Court on annual review of William Deans' status as a Sexually Violent Predator pursuant to South Carolina Code Section 44-48-110. A hearing was held pursuant to Section 44-48-110 on February 12, 2015. Mr. Deans represented himself and was advised by attorney Gordon Senerius. The State was represented by Assistant Attorney General Christopher Andrew Morrow.

Mr. Deans was committed to the Sexually Violent Predator Treatment Program on or about July 7, 2004. The Court received a letter from the Department of Mental Health dated August 1, 2014, indicating Mr. Deans was exercising his right to a hearing. The Department also sent an Annual Review Packet to the Court, including an Annual Review Treatment Summary dated August 1, 2014.

The purpose of an annual review hearing held pursuant to South Carolina Code Section 44-48-110 is for the court to determine whether probable cause exists to believe that "the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence." S.C. Code Ann. § 44-48-110 (Supp. 2008). At the hearing, the committed person bears the burden of showing that probable cause exists to believe his mental condition has so changed that he is safe to be released. In re Care and Treatment of Tucker, 353 S.C. 466, 578 S.E.2d 719 (2003). In the context of Sexually Violent Predator cases, a party establishes probable cause when he presents evidence that "would lead a reasonable person to believe and conscientiously entertain" the proposition set forth at the hearing. See In re the Care and Treatment of Brown, 372 S.C. 611, 643 S.E.2d 118 (Ct. App. 2007) (establishing this standard for hearings held pursuant to South Carolina Code Section 44-48-80).

At the hearing, Mr. Deans did not present any evidence on his behalf to support a finding of probable cause in this matter. The State relied upon the report prepared by Dr. Donna Schwartz-Watts, M.D., a Psychiatrist at the Department of Mental Health, who conducted the annual review for Mr. Deans and submitted to this Court pursuant to South Carolina Code Section 44-48-110. Based on her evaluation of Mr. Deans, she found that there was an insufficient basis to opine that Mr. Deans' mental abnormality and/or personality disorder had so changed that he is safe to be at large and no longer likely to engage in acts of sexual violence.



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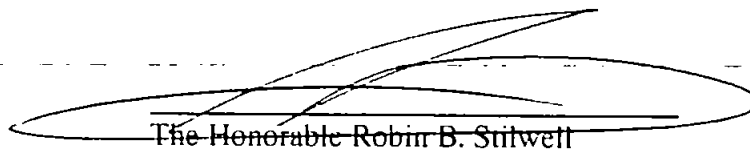
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GENERAL SESSIONS

Based on the testimony presented, the report and the arguments of counsel, the Court hereby finds and concludes that a reasonable person would not believe or conscientiously entertain Mr. Cook's mental abnormality or personality disorder has so changed that he is safe to be at large, and, if released, is not likely to commit acts of sexual violence; therefore, Mr. Deans has failed to meet his burden, and the Court does not find probable cause in this matter.

THEREFORE IT IS ORDERED, ADJUDGED AND DECREED that William Deans 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, Code of Laws of South Carolina, 1976, as amended, Sections 44-48-10 et seq.

Mr. Deans continues under the jurisdiction of this Court.

IT IS SO ORDERED.



The Honorable Robin B. Stitwell
Presiding Judge for the Tenth Judicial Circuit
Court of Common Pleas

02/13/2015
Anderson, South Carolina

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GENERAL SESSIONS

