

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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MAR 23 2015

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**APPEAL FROM CHARLESTON COUNTY**  
**Court of Common Pleas**  
**Honorable R. Markley Dennis Jr., Circuit Court Judge**

**SC Court of Appeals**

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Appellate Case No: 2014-001744

In The Matter of the Care and Treatment of  
Glenn David Jones, Appellant

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ANDERS BRIEF OF APPELLANT

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**GLENN DAVID JONES**

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Charles T. Brooks, III  
Post Office Box 3512  
309 Broad Street  
Sumter, South Carolina 29151  
(803) 418-5708  
Attorney for Appellant

## TABLE OF AUTHORITIES

### STATUTES:

§44-48-100 South Carolina Code of Laws  
§44-48-110 South Carolina Code of Laws  
§44-48-120 South Carolina Code of Laws  
§44-48-130 South Carolina Code of Laws

### CASE LAW:

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

Anders v. California, 386 U.S. 738 (1967)

## **STATEMENT OF ISSUE ON APPEAL**

- I. IS THE STATUTE, AS WRITTEN, INADEQUATE AS WELL AS A VIOLATION OF THE CONSTITUTIONAL RIGHTS FOR EQUAL PROTECTION FOR THE APPELLANT?

## **STATEMENT OF THE CASE**

Glenn David Jones (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. Appellant was charged with Assault with Intent to Commit Criminal Sexual Conduct August 1988 and was subsequently sentenced to ten (10) years incarceration with the South Carolina Department of Corrections (SCDC). On July 08, 2003, the Appellant was committed voluntarily to the custody of SCDMH and their SVP Program and entered the program on July 11, 2003.

On April 17, 2014, a review hearing in the Appellant's case was held before the Honorable R. Markley Dennis. At this hearing the Appellant provided expert testimony that the Appellant's condition had so changed that the Appellant was not likely to re-offend or commit further acts of sexual violence. The State had expert testimony to the contrary. At the conclusion of the Annual Review Hearing the Judge ruled that the Appellant did meet the burden of probable cause and granted the Appellant's right to trial by Jury to determine this matter.

An Annual Review Release Jury Trial was held the week of August 11, 2014, in Charleston County. The Jury found that the State had proven beyond a reasonable doubt that the Petitioner's mental abnormality or personality disorder had not so changed that he was safe to be at large, and if release, was likely to commit acts of sexual violence.

## ARGUMENTS OF THE CASE

The statute, as written, is inadequate for the Appellant. Not only is it inadequate but it is also unconstitutional as it violates the equal protection clause of the United States Constitution.

The statute should allow supervision of the Appellant by the State just as the State allows for supervision for persons who are not guilty by reason of insanity or mental defect thereby providing a method of reintroducing such an individual back into the South Carolina Department of Mental Health (“SCDMH”). Both situations; the Appellant committed to the SCDMH SVP Program and an individual committed to SCDMH’s care as a result of being found not guilty by reason of insanity, are within the custody, care and control of SCDMH.

In the Appellant’s case, he has the opinion of a trained and qualified expert that he should be deemed safe to be released that the Appellant’s risk of re-offense was minimal. (Transcript pg. 135). However, leaving such a decision to a jury who are not properly trained to discern between what a person was and who a person has become throughout the course of treatment greatly prejudices the Appellant. Much of the State’s argument is couched on the use of fear by arguing to the jury that there is no available mechanism of monitoring of the Appellant if he is granted release. The statute is therefore inadequate because it has no such mechanism whereas statutes regarding guilty by reason of insanity does have such mechanisms.

## ANALYSIS

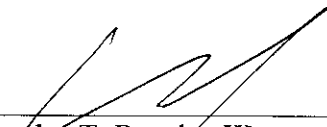
Counsel in this matter has conducted a full review of the record and has considered the facts and legal issues in the case.

Based upon the above analysis, counsel is of the opinion that Appellant has no arguable grounds for appeal in this case. Therefore, in accordance with the requirements of In Re: McCoy, as well as Anders this appeal has been noted and Appellant 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 Appellant 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, as well as Anders 386 U.S. 738 (1967) 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



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3/20, 2011

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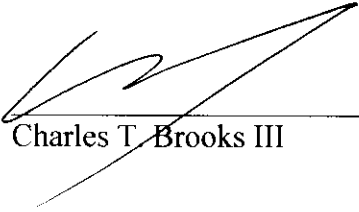
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**CERTIFICATE OF COUNSEL**

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

 , 2015

  
Charles T. Brooks III

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Glenn David Jones, Appellant

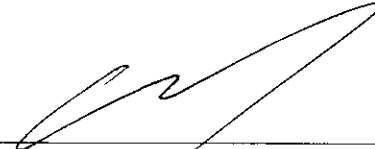
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**DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL**

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Appellant, Glenn David Jones, proposes the following documents and orders from the case to be included in the Record on Appeal;

- a. Order of Continued Commitment dated August 12, 2014
- b. Transcript from Hearing dated August 11-12, 2014
- c. Notice of Appeal



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Attorney for Appellant

*3/26*, 2015

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
Honorable R. Markley Dennis Jr., Circuit Court Judge

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**SC Court of Appeals**

Case No: 2002-CP-10-03876

In the Matter of the Care and Treatment of

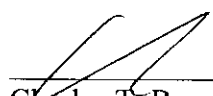
Glenn David Jones

**PROOF OF SERVICE**

I, the undersigned, do hereby certify that on this 20<sup>th</sup> day of March, 2015, I served the foregoing **Initial (Anders) Brief of Appellant, Certificate of Counsel, Designation of Matter to be Included on Record of Appeal and Record on Appeal**, as well as **Proof of Service** in this matter by depositing a true copy of it in the United States Mail, postage prepaid, addressed to the following:

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

Glenn David Jones  
S. C. Dept. of Mental Health  
SVP Program  
7901 Farrow Road  
Columbia, South Carolina, 29203

  
Charles T. Brooks, III  
Attorney for the Appellant  
309 Broad Street  
Sumter, South Carolina 29150  
(803) 418-5708

Dated: March 20, 2015

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# The Brooks Law Office, LLC

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March 20, 2015

South Carolina Court of Appeals  
Clerk of Court, Jenny Abbott Kitchings  
P.O. Box 11629  
Columbia, South Carolina 29211

RE: In the Matter of the Care and Treatment of Glenn D. Jones  
Case No. 2008-CP-14-183  
Appellate Case No.: 2014-001744

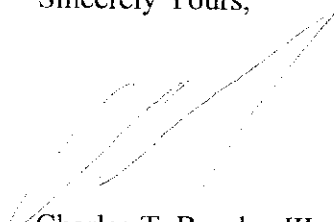
Dear Ms. Kitchings:

Enclosed please find **Initial (Anders) Brief of Appellant, Certificate of Counsel, Designation of Matter to be Included on Record of Appeal and Record on Appeal** with the appropriate copies in reference to the above matter, which I submit for filing at this time.

If you have any questions or concerns, please contact my office at the number listed above.

With kindest regards, I remain,

Sincerely Yours,



Charles T. Brooks, III

CTB,III/jlm

cc: Deborah R. J. Shupe, Esquire (SCAG Office)

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