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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

JAN 03 2017

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable D. Craig Brown, Circuit Court Judge

RECEIVED

JAN 25 2017

SC Court of Appeals

Civil Case No. 2016-CP-40-02459  
Appellate Case No. 2016-001544

Sean Lyons,

Appellant,

v.

Palmetto Richland Springs,

Respondent.

**RECORD ON APPEAL**

Shelton W. Haile  
Michelle P. Kelly  
1900 Barnwell Street (29201)  
Post Office Drawer 7788  
Columbia, SC 29201  
(803) 771-4400  
**ATTORNEYS FOR RESPONDENT**

Sean Lyons  
8310 Two Notch Rd., #208  
Columbia, SC 29223  
(714) 430-0367

In Pro Per

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STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE PROBATE COURT )  
CASE # 2016 MI40 0220 )

2016 MAR -3 PM 7:04

FILED

IN THE MATTER OF: )

SEAN LYONS )

(Date of Birth: 10/25/1985) )

(A Mentally Ill Person) )

ORDER

JACQUELINE D. McCLINTON  
ASSOCIATE JUDGE  
PROBATE COURT, S.C.

APPLICANT )

DEBORAH JOYCE )

An Application for Involuntary Emergency Hospitalization for Mental Illness was filed on the 19th day of February, 2016 regarding SEAN LYONS, who currently resides at 1633 BROAD RIVER RD., APT. 141, COLUMBIA, SC. SEAN LYONS is represented today by M. L. Bartlett, Jr., Court-appointed attorney and Guardian ad Litem. Present at the hearing were SEAN LYONS; M. L. Bartlett, Jr.; Dr. Aleta Marie McGough; Andrea Gantt, MSW.

Based on the documents before the court and the testimony presented at the hearing, I find by clear and convincing evidence that SEAN LYONS is mentally ill and lacks sufficient insight or capacity to make reasonable decisions with respect to treatment and/or is a danger to himself or others and is in need of involuntary treatment.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

SEAN LYONS shall be committed to Palmetto Richland Springs for further inpatient care and treatment as provided in S.C. Code Ann. §44-17-580 and remain there until stable for discharge. Palmetto Richland Springs is permitted to transfer SEAN LYONS to G. Werber Bryan Psychiatric Hospital for further inpatient care and treatment, if necessary. The treatment records of SEAN LYONS from Palmetto Richland Springs shall be sent with him to G. Werber Bryan.

Upon discharge from Palmetto Richland Springs or G. Werber Bryan Psychiatric Hospital, SEAN LYONS must undergo an outpatient treatment program at the Columbia Area Mental Health Center (CAMHC) or a local mental health facility in his county of residence for a period not to exceed 12 months.

SEAN LYONS must comply with all medications as prescribed.

SEAN LYONS must comply with all appointments as scheduled. Furthermore, SEAN LYONS is responsible for notifying the treating facility if any appointments cannot be attended as scheduled and is responsible for rescheduling the appointment.

This Court shall retain jurisdiction over SEAN LYONS to insure compliance with this Order, pursuant to S.C. Code Ann. §44-17-580. If SEAN LYONS does not comply with any portion of this Order, an Affidavit of Noncompliance and Request for Supplemental Hearing will be filed with the Richland County Probate Court and SEAN LYONS will be required to attend a hearing to show cause as to the reason(s) for the noncompliance.

Pursuant to the S.C. Code Ann. §23-31-1030 and §44-22-100 SEAN LYONS is prohibited from purchasing and possessing firearms and ammunition and will be reported to SLED for this purpose.

**AND IT IS SO ORDERED.**



March 3, 2016  
Columbia, South Carolina

\_\_\_\_\_  
Associate Probate Judge

2016-2459

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE MATTER OF: )  
SEAN LYONS )  
(Date of Birth: 10/25/1985) )  
(A Mentally Ill Person) )

APPLICANT )  
DEBORAH JOYCE )

IN THE PROBATE COURT )  
CASE # 2016 MI40 0220 )  
RICHLAND COUNTY )  
FILED )  
2016 MAY 12 PM 4:51 )  
JEANETTE W. McBRIDE )  
C.C.P. & G.S. )  
ORDER REGARDING )  
WRIT OF HABEAS CORPUS )

2016 MAR -8 PM 2:08 )  
FILED )  
JANET A. MCCULLOUGH )  
PROBATE JUDGE )  
RICHLAND COUNTY, S.C. )

An Application for Involuntary Emergency Hospitalization for Mental Illness was completed on February 17, 2016 and filed with this court on February 19, 2016 regarding SEAN LYONS, who was admitted to Palmetto Richland Springs for inpatient mental health treatment on February 18, 2016, pursuant to completion on February 17, 2016 of a Certificate of Licensed Physician. On February 24, 2016, Sean Lyons requested that his social worker, Andrea Gantt, MSW, submit a Petition to the court. The Petition was entitled "Emergency Relief Requested" and as presented in its arguments it was considered to have been submitted as a Writ for Habeas Corpus. A copy of the Petition and Writ was sent to Mr. Lyons' attorney and Guardian *ad Litem*, M.L. Bartlett, Jr. for his review.

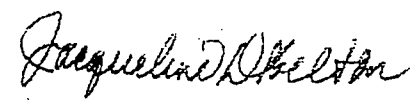
The designated examiners in this case, Aleta Marie McGough, M.D. and Andrea Gantt, submitted their designated examiner reports as required in S.C. Code Ann. §44-17-410(3), in which they found that Sean Lyons was mentally ill and in need of involuntary hospitalization. As also required by that same Code section, pursuant to such a finding a hearing was scheduled for Sean Lyons on March 3, 2016, which was within the required fifteen (15) days of admission to Palmetto Richland Springs. Accordingly, a separate hearing was not scheduled regarding the Petition and Writ filed by Mr. Lyons.

All interested parties were sent notice of the hearing and it was held on March 3, 2016. Sean Lyons, Mr. Bartlett, Dr. McGough, and Ms. Gantt were present. Based on the documents and the testimony presented at the hearing, the Court found by clear and convincing evidence that Sean Lyons is mentally ill and that he meets the standard for continued emergency inpatient treatment. The Petition and Writ were not specifically mentioned, but Mr. Lyons did ask questions about the basis for his involuntary commitment. The Court responded and explained the legal basis for his involuntary treatment, including the legal basis for his initial commitment, his assessment by examiners after admission, his right to a hearing, and the Court's determination that he still meets the emergency standard for continuing inpatient treatment.

The purpose of a Writ of Habeas Corpus is to insure that a person cannot be held in jail or prison indefinitely on a criminal charge without having the opportunity to come before a judge. However, when the individual is brought before a judge the purpose of the Writ is to allow the court to rule on the legality of the detention, and not to rule on either guilt or innocence. The Writ of Habeas Corpus is not applicable in this case for two reasons: First, this is a civil proceeding and not a criminal proceeding. Second, Chapter 17 of Title 44 of the S.C. Code contains several Code sections which provide protection for individuals who are alleged to be in need of involuntary civil commitment and those who have been involuntarily civilly committed. Those Code sections insure that there is an assessment at various stages of the civil commitment process to determine whether involuntary civil commitment is still appropriate. Specifically, §§44-17-410 (2) and (3), 44-17-540, 44-17-580, and 44-17-630 provide those protections.

**THEREFORE, IT IS HEREBY ORDERED THAT:**  
SEAN LYONS shall remain civilly committed for further inpatient mental health care and treatment. All required statutory protections have been appropriately followed in this case, and Mr. Lyons is not entitled to discharge until it is determined that he no longer meets the standard for emergency inpatient mental health treatment.

**AND IT IS SO ORDERED.**



March 8, 2016  
Columbia, South Carolina

\_\_\_\_\_  
Associate Probate Judge

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Sean Lyons,

Appellant,

v.

Palmetto Richland Springs,

Respondent.

) IN THE COURT OF COMMON PLEAS

) CIVIL ACTION NO. 2016-CP-40-02459

ORDER

RICHLAND COUNTY  
FILED  
2016 JUL 13 AM 8:59  
JEANNETTE W. HOBRIDE  
C.C.P. & G.S.

This matter came before the Court for a hearing on June 10, 2016, by way of a Notice of Intention to Appeal and Grounds for the Appeal [S.C. Code Ann. §44-17-620] filed on April 15, 2016. Appellant appeared *pro se* and Respondent Palmetto Richland Springs was represented by Shelton W. Haile, Esq. The Court has considered the rules of court, the applicable statutory and case law, the briefs filed by the parties and the arguments of *pro se* Appellant and Respondent's attorney.

Appellant was taken to the Palmetto Health Baptist emergency department on February 16, 2016, by the police after the police responded to a call that Appellant was behaving strangely. Appellant remained in the Palmetto Health Baptist emergency department until February 18, 2016, when he was transferred to Palmetto Health Richland Springs ("Richland Springs") for mental health evaluation and treatment. Richland Springs is a mental health facility providing inpatient psychiatric services. Appellant remained hospitalized at Richland Springs until March 8, 2016, pursuant to an Order issued by the Probate Court on March 3, 2016. On March 8, 2016, Appellant was transferred to the South Carolina Department of Mental

DCh  
p. 10/2  
SCANNED

Health's Bryan Psychiatric Hospital for further mental health evaluation and treatment. Appellant filed an appeal challenging the validity of the Probate Court's March 3, 2016, Order.

The Court finds that Appellant failed to timely file his appeal. Appellant was required to file the appeal within fifteen (15) days of the date the Probate Court's March 3, 2016, Order. See S.C. Code Ann. § 44-17-620. There are no exceptions to the fifteen (15) day requirement. Appellant had until March 18, 2016, to file his appeal, but failed to do so. The appeal was filed on April 15, 2016, which is forty three (43) after the Probate Court's Order was issued.

The Court also finds that the Probate Court's March 3, 2016, Order should not be disturbed. The Probate Court conducted a hearing in accordance and compliance with the applicable statutes and laws and issued its March 3, 2016, Order finding the Appellant was mentally ill and that he required inpatient and outpatient treatment at a mental health facility. "The circuit court may not disturb the probate court's findings of fact unless a review of the record discloses there is no evidence to support them." Matter of Howard, 315 S.C. 356, 361, 434 S.E.2d 254, 257 (1993) (citing Adams v. B&D, Inc., 297 S.C. 416, 377 S.E.2d 315 (1989)). The Probate Court Order should not be "disturbed on appeal unless found to be without evidentiary support." Dean v. Kilgore, 313 S.C. 257, 259, 437 S.E.2d 154, 155 (Ct. App. 1993). The Court has reviewed the Probate Court record and finds there is evidentiary support for the Probate Court's March 3, 2016, Order.

**IT IS ORDERED** that Appellant's appeal is denied and the Probate Court's March 3, 2016, Order is upheld.

**IT IS SO ORDERED.**

  
The Honorable D. Craig Brown  
Presiding Circuit Court Judge

7-6, 2016

DCB  
2-2-17

Page 2 of 2

SCANNED

APPLICATION FOR INVOLUNTARY EMERGENCY HOSPITALIZATION FOR MENTAL ILLNESS

FILED

2016 FEB 25 PM 12:04

(Complete in Triplicate) STATE OF SOUTH CAROLINA COUNTY OF Richland

AMY W. McCULLOCH PROBATE JUDGE RICHLAND COUNTY, S.C.

FOR HOSPITAL USE ONLY Date Admitted Hospital Register No. Approval of Hospital Official Signature Date

IN THE MATTER OF Sean Lyons M 10/25/85 W Person alleged to be mentally ill Sex Birthdate Age Race Marital Status

2025 Main St City: Calhoun State: S.C. 29201 Phone # Length of Time Residing There: 6 months 1633 Broad River Rd, Apt. 141, Columbia, SC 29210

TO THE HOSPITAL DIRECTOR:

Application is hereby made for the INVOLUNTARY EMERGENCY ADMISSION of the aboved-named person to a SCDMH Psychiatric Hospital or to Richland Springs NAME OF NON-SCDMH HOSPITAL

3/3/16 per Mr. Lyons

for the following reasons:

That the undersigned believes that the above-named person is mentally ill, and because of this mental condition is likely to cause serious harm to self or others if no immediately hospitalized.

1. The specific type of serious harm thought probable is: Danger to self or others.

2. That the applicant bases his/her belief on the following grounds: P. has poor insight & poor judgment. P. appears psychotic & judgment not functional

3. That the applicant understands that for Involuntary Emergency Admission to occur that the said person must be examined and certified by at least one licensee physician (Part II, Certificate of Licensed Physician for Mental Illness) as required by Section 44-17-410, S.C. Code, 1976, as amended. If the said person has not been examined, listed below are the reasons:

4. That next-of-kin of allegedly mental ill person is Robin Rini Name Relation: Mother Whose address is 4803637154 RFD or Street City and State Zip Phone Number

In case of next-of-kin cannot be contacted, notify Relation Address City and State Zip Phone Number

SWORN to before me this 17 day of February 19 2016 Melissa M. Coste Notary Public for South Carolina or Probate Judge My Commission Expires: 01-31-24

WHEREFORE, the undersigned requests that the person named above be admitted to a psychiatric hospital for treatment as authorized by law.

Deborah Joyce Applicant's Signature Name of Applicant (typed or printed) 1333 Taylor Dr Marion S.C. 29201 Address of Applicant 803 296 5050 Telephone Number of Applicant Clinical Intake Coordinator Relation to Patient or Title, if any

(See reverse side which must be completed)

APPLICATION FOR INVOLUNTARY EMERGENCY HOSPITALIZATION FOR MENTAL ILLNESS

**IMPORTANT NOTICE:** All patients receiving treatment in a State Department of Mental Health facility will be charged the established fee as approved by the South Carolina Mental Health Commission.

**PERTINENT FINANCIAL RESPONSIBILITY INFORMATION**

Present Name <i>Sean Lyons</i>		Full Name at Birth if Different From Present	
Education Level	Social Security Number	Occupation <i>Unemployed</i>	Monthly Income
Employer's Name	Address	If not employed, source of income:	
		Retirement \$	Public Assistance \$ Other \$

**HOSPITALIZATION INSURANCE** Coverage including group insurance, Medicare, Medicaid, military medical care, etc.

Policy No. or HIB	Name of Insurance Co.	Address	If group insurance, name & address of firm
<i>None</i>			

**MILITARY SERVICE**

Branch	Service Number	Dates of Service	Type Discharge	Monthly Pension	VA Claim No.

**FINANCIAL REPRESENTATIVE** Please list the name, address and telephone numbers of the person to receive financial statements and other media related to the personal financial affairs on behalf of the patient.

Last Name	First Name	Middle Initial	Relation to Patient	Street Address or Rural Route & Box	Telephone
				City, State, Zip	Telephone

**LIST OF SCDMH PSYCHIATRIC HOSPITALS**

<p>G. Werber Bryan Psychiatric Hospital 220 Faison Drive Columbia, S.C. 29203</p> <p>For information and prior to all admissions call: 737-7143 - All Hours</p>	<p>South Carolina State Hospital 2100 Bull Street (P.O. Box 119) Columbia, S.C. 29202</p> <p>For information and prior to all admissions call: 734-6560 - All Hours</p>	<p>William S. Hall Psychiatric Institute 1800 Colonial Drive (P.O. Box 202) Columbia, S.C. 29202</p>
<p>Patrick B. Harris Psychiatric Hospital P.O. Box 2907 Anderson, S.C. 29622</p> <p>For information and prior to all admissions call: 231-2600 - All Hours</p>	<p>Crafts-Farrow State Hospital 7901 Farrow Road Columbia, S.C. 29203</p> <p>For information and prior to all admissions call: 737-7922 - All Hours</p>	<p>Psychiatry Unit Forensic Unit Children's Unit</p> <p>For information and prior to all admissions call: 734-7038 - All Hours</p>

**NOTE: ADMINISTRATIVE PROCEDURE - FORMS:**

"Application for Emergency Admission, Part I", and "Certificate of Licensed Physician, Part II", must be completed in triplicate and accompany the patient to the receiving hospital. The hospital must forward one copy to Judge of Probate of the county in accordance with 44-17-410(3) and retain one copy in the person's hospital record. **ADMISSION MUST BE WITHIN SEVENTY-TWO HOURS OF THE DATE OF THE CERTIFICATION OF THE LICENSED PHYSICIAN, (PART II).**

**NOTE: TO LICENSED PHYSICIAN:**

- The licensed physician must consult with the local State Community Mental Health Center regarding the commitment/admission process and the available treatment options and alternatives in lieu of hospitalization at a state psychiatric facility. (Section 44-17-460, S.C. Code, 1976, as amended).
- The licensed physician must also consult via telephone with the admitting physician of the receiving hospital regarding the appropriateness of admission and the persons mental and physical treatment needs.

**NOTE: TO POLICE AND OTHER OFFICERS OF THE PEACE:**

The certificate of a licensed physician authorizes and requires taking the proposed patient into custody. Section 44-17-440, South Carolina Code of Laws, 1976, as amended: "The certificate required by item 2 of Section 44-17-410 shall authorize and require any officer of the peace, preferably in civilian clothes, to take the individual into custody and transport him to the hospital designated by the certification. No person shall be taken into custody after the expiration of three days from the date of the certification. Any friend or relative may transport the individual to the mental health facility designated in the application, provided such friend or relative has read and signed a statement on the certificate which clearly states that it is the responsibility as an officer of the peace to provide timely transportation for the patient and that the friend or relative freely chooses to assume such responsibility. A friend or relative who chooses to transport the patient shall not be entitled to reimbursement from the State for the cost of such transportation. Any officer acting in accordance with the provisions of this article shall be immune from civil liability."

**NOTE: TO FRIENDS AND RELATIVES:**

It is the responsibility of an officer of the peace to provide timely transportation of the person alleged to be mentally ill to the designated mental health facility. However, by freely signing this statement, you can choose to assume that responsibility. Transportation must begin immediately. This form must be hand delivered by you to the admissions office of the designated mental health facility at the time of admission.

Date

Signature

Friend or Relative/Relationship

CERTIFICATE OF LICENSED PHYSICIAN  
MENTAL EXAMINATION FOR PSYCHIATRIC TREATMENT

*John*  
*Sean*

*Sean Doe Lyons*  
NAME OF PERSON EXAMINED

AGE

COUNTY OF RESIDENCE

*PHB-ED*  
PLACE OF EXAMINATION

*11:30am 2-17-16*  
HOUR AND DATE OF EXAMINATION

I, THE UNDERSIGNED LICENSED PHYSICIAN, have examined the above-named person and am of the opinion that the said individual:

IS MENTALLY ILL AND because of this mental condition CURRENTLY POSES A SUBSTANTIAL RISK of physical harm to self and/or others to the extent that INVOLUNTARY EMERGENCY HOSPITALIZATION is recommended.

My recommendation for INVOLUNTARY EMERGENCY HOSPITALIZATION is based on the following symptoms and specific examples of behavior which indicate mental illness and probable risk of harm:

*Patient is psychotic with grandiose delusions and is in need of psychiatric stabilization.*

The person is therefore to be transported to \_\_\_\_\_  
NAME OF SCDMH PSYCHIATRIC HOSPITAL

or to \_\_\_\_\_ for involuntary emergency admission.  
NAME OF NON-SCDMH HOSPITAL

For admission to SCDMH hospital, Physician must complete Part II, Page 2, over.

*Leslie E. Frinks*, M.D.  
SIGNATURE OF LICENSED PHYSICIAN

*24121*  
S.C. LICENSE NUMBER

*Leslie E. Frinks*, M.D.  
TYPED OR PRINTED NAME

*216-5950*  
PHONE NUMBER

*Taylor at Sumter Street*  
*Columbia, SC*  
ADDRESS

All information MUST be typed or clearly printed.

**PART II**  
**CERTIFICATE OF LICENSED PHYSICIAN**  
**MENTAL EXAMINATION FOR PSYCHIATRIC TREATMENT**

Specify type of admission sought:		<input checked="" type="checkbox"/> Emergency	<input type="checkbox"/> Voluntary	<input type="checkbox"/> Judicial							
Name of Patient	Sex <i>M</i>	County of Residence	Date of Birth	Age							
Are there prior admissions to SCDMH or other mental hospitals? _____ Yes _____ No		Where?	When?								
Are there criminal charges? _____ Yes <input checked="" type="checkbox"/> No		If yes, give details (include county, type of charge)									
Reasons for psychiatric admission (specify symptomatology) (Not necessary to repeat if completed on Page 1, over.)											
<i>See page 1</i>											
Medical condition of patient											
<i>stable</i>											
Is patient medicated prior to transporting? _____ Yes _____ No		If yes, give type, amount, route and when administered.									
Medication - Maintenance Drugs											
<b>HEALTH OF PATIENT</b>											
Disease	Yes	No	Date(s)	Disease	Yes	No	Date(s)	Disease	Yes	No	Date(s)
Paralysis or Crippled Limbs		<i>  </i>		Cancer		<i>  </i>		Homicidal or Suicidal Tendency		<i>  </i>	
Blindness or Eye Trouble		<i>  </i>		TB or Lung Disease		<i>  </i>		Mental Retardation or Dementia		<i>  </i>	
Deafness or Ear Trouble		<i>  </i>		Heart or Hi. Bl. Pressure		<i>  </i>		Syphilis		<i>  </i>	
Epilepsy or Seizures		<i>  </i>		Tremors or Abnormal Movements		<i>  </i>		HIV +		<i>  </i>	
Diabetes		<i>  </i>		Hepatitis		<i>  </i>		Alcohol Abuse		<i>  </i>	
Patient's Operations				Serious Allergies		<i>  </i>		Drug Abuse		<i>  </i>	
				Head Injury		<i>  </i>		Types Abused		<i>  </i>	
Name of SCDMH Hosp. Accepting Admission				Name of SCDMH Hosp. Physician Authorizing Admission							
<p>ON THE BASIS OF MY PERSONAL EXAMINATION, I BELIEVE THE CONDITION OF THIS PERSON IS SUCH AS TO REQUIRE ASSESSMENT AND TREATMENT IN A MENTAL HOSPITAL. FURTHERMORE, THE PERSON HAS NO MEDICAL/SURGICAL CONDITIONS OR DISABILITIES THAT PRESENTLY REQUIRE A GENERAL HOSPITAL OR NURSING HOME LEVEL OF CARE AND IS MEDICALLY STABLE AND PHYSICALLY ABLE TO PARTICIPATE IN PSYCHIATRIC TREATMENT.</p> <p>I have consulted with the _____ Community Mental Health Center regarding Preadmission Screening. If not, state clinical reason _____</p>											
<i>Leslie E. Frinks</i>				_____, M.D.				<i>26121</i>			
SIGNATURE OF LICENSED PHYSICIAN								S. C. LICENSE NUMBER			
<i>Leslie E. Frinks</i>				_____, M.D.				<i>296-5050</i>			
TYPED OR PRINTED NAME								PHONE NUMBER			
ADDRESS											

Sean Lyons  
11 Richland Medical Park Dr  
Columbia, SC 29203

In Pro Per  
803-434-4810  
Case: 02902

In the Court of South Carolina

Petitioner,

Sean Lyons

Respondents,

Dr. Aleta McGough,  
Palmetto Health, ~~SC~~  
Richland Springs.

Petition for

Habeas Corpus of  
the Petitioner Sean Lyons

Date: 2/22/2016

Emergency Relief Requested

Petitioner herewith petitions the Court for Habeas Corpus on the following grounds and facts:

Dr. Aleta McGough told Sean Lyons, the Petitioner, She has not scheduled anything for Petitioner to be seen by a judge and probably would not for about a week and one half week, or maybe longer, "She hadn't decided yet." She is purposely delaying a court hearing, which is latches, which can be contempt of court. She has threatened to find medication and a psychological testing in a tone as if she was trying to upset the petitioner. Petitioner feels there is no basis, other than he is an interesting person to be around, and is getting a long very well with the other patients. As much as it's benefit may be for Petitioner to continue being here with the patients, who almost have become a family unit, Petitioner is not a doctor, of any kind at this time, and feels it is against his Civil Rights to detain someone, especially civilly, without out immediate Due Process. Petitioner would like to bring to the courts attention that a criminal proceeding has a steady process, I would be immediately released if not arraigned in the proper time frame. Petitioner prays to the court for immediate release as it is the only appropriate relief for this circumstance, on the following grounds: (1) Dirty Hands Doctrine, (2) Latches, (3) Mental Abuse from the care giver, (4) Breach of Patient Doctor Confidentiality, and (4) Deprivation of Civil Rights.

I declare under penalty of Perjury that the foregoing is true and correct.  
Witness: Columbia, SC 2/22/2016 by Sean Lyons (Petitioner) Sean Lyons

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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE CIVIL COURT

SEAN LYONS,  
  
Appellant,  
-vs-  
  
PALMETTO RICHLAND SPRINGS,  
  
Respondent.

)  
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TRANSCRIPT OF RECORD  
  
16-CP-40-02459

June 10, 2016  
Columbia, South Carolina

B E F O R E:

HONORABLE D. CRAIG BROWN, Judge.

A P P E A R A N C E S:

SEAN LYONS appeared pro se.

SHELTON W. HAILE, Esquire  
Attorney for the Respondent

L. COCONUT PANTSARI, R.P.R.  
Circuit Court Reporter

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**INDEX OF WITNESSES**

(Court Reporter's Note: There was no direct or cross examination of any witnesses).

**INDEX OF EXHIBITS**

(Court Reporter's Note: No exhibits were marked or received into evidence).

1           (The following proceedings are reported on  
2 June 10, 2016.)

3           THE COURT: The next case on here is Sean  
4 Lyons versus Palmetto Springs, Palmetto Richland  
5 Springs. Is anyone here on that?

6           MR. HAILE: Yes, sir.

7           MR. LYONS: Sean Lyons, the appellant. I'm  
8 representing myself.

9           THE COURT: Mr. Lyons, how are you doing this  
10 morning, sir?

11          MR. LYONS: Good, Your Honor. How are you?

12          THE COURT: I'm doing well. You are the  
13 appellant in this matter?

14          MR. LYONS: Yes, Your Honor.

15          THE COURT: I would be happy to hear from you.  
16 If you would stand while you address the Court, please,  
17 sir. Happy to hear from you, anything you want to tell  
18 me.

19          MR. LYONS: Yes. I feel that this should be  
20 reversed. There was a lot of mistakes made by the other  
21 party.

22          THE COURT: Can I ask you something?

23          MR. LYONS: Yes.

24          THE COURT: It appears that -- and I have  
25 reviewed the file before I came in here. That was one

1 of the reasons I was a few minutes late coming in here  
2 because I wanted to review all of these files before I  
3 came in here this morning.

4 It appears that you were placed in a hospital?

5 MR. LYONS: Uh-huh.

6 THE COURT: Okay. And it further appears that  
7 pursuant to you being placed in the hospital that you  
8 filed a writ of habeas corpus?

9 MR. LYONS: Yes.

10 THE COURT: And that matter went before the  
11 probate judge; correct?

12 MR. LYONS: Uh-huh.

13 THE COURT: And the probate judge issued her  
14 ruling. Her ruling determined that a writ under this  
15 situation was improper because a writ is filed in a  
16 criminal matter and not a civil matter such as this.

17 MR. LYONS: Okay.

18 THE COURT: Okay?

19 MR. LYONS: Yes, sir.

20 THE COURT: Do you understand that?

21 MR. LYONS: Yes, Your Honor.

22 THE COURT: And you are asking this Court to  
23 reverse her decision on that issue?

24 MR. LYONS: Not that issue, the issue of the  
25 adjudication of mental illness.

1 THE COURT: Yes, sir.

2 MR. LYONS: There was an order for outpatient  
3 treatment.

4 THE COURT: You are saying that you should not  
5 have to comply with that order for outpatient treatment?

6 MR. LYONS: The part that concerns me is the  
7 mental illness. I don't feel that I am mentally ill,  
8 but there is also a lot of other technical mistakes and  
9 errors in the way that it was done. I can be more  
10 specific.

11 THE COURT: Let me tell you what my review is  
12 limited to here. Pursuant to Section 61-1-308, the  
13 hearing -- what we are doing here today -- is limited to  
14 the arguments on the evidence presented in the probate  
15 court.

16 So what I've got to look at is the evidence  
17 that was presented in the probate court; and no new  
18 evidence may be offered before the circuit court, where  
19 you are here today. Do you understand that?

20 MR. LYONS: Yes, Your Honor.

21 THE COURT: So having said that, tell me what  
22 you want to tell me here today.

23 MR. LYONS: Okay. My main concern was that  
24 the notice of hearing and the order for the emergency  
25 order for detention does not state any conclusions and

1 underlying facts and any standard upon which I was  
2 detained.

3 So the notice of hearing, which is right here,  
4 doesn't list any factors, other than that I am being  
5 detained by Palmetto Richland Springs and that I'm  
6 alleged to be medically ill.

7 It's missing any key facts of what they think  
8 that I would be doing because another -- I'm sorry. I  
9 tried to get an attorney -- but I looked all this stuff  
10 up. If you can just bear with me.

11 THE COURT: Okay.

12 MR. LYONS: Section 44-17-410, the pertinent  
13 part is that: "The specific type of serious harm  
14 thought probable if a person is not immediately  
15 hospitalized and a factual basis for this belief."

16 This is for the emergency assessment, but the  
17 concern I have is that is not on there. That means that  
18 there were no underlying facts. They didn't draw the  
19 conclusion of what they thought that I would do, which  
20 is nothing.

21 But on the emergency order, it just says,  
22 "Patient is psychotic with grandiose delusions and is in  
23 need of psychiatric stabilization." Those aren't  
24 dangers. Those aren't anything.

25 Those aren't -- it's not sufficient to hold

1 somebody. It doesn't make someone mentally ill or a  
2 danger to himself or others. I feel that there is a lot  
3 of technicalities and stuff like that that I really  
4 don't want to go into unless you have time for it.

5 There is another appeal that I can do after  
6 this in the Court of Appeals. I feel that if I argue in  
7 briefs that it would be easier for me. I feel that I  
8 most likely would prevail in another appeal.

9 So I feel that here is the place to just  
10 repeal it now or overturn the order of mental illness or  
11 at least -- because otherwise it's just going to go  
12 further. I definitely plan on appealing it further.

13 One of the main things that concerns me is  
14 that one of the examiners is a social worker. Her  
15 certification or her observation is very vague and  
16 very -- no factual evidence of how I can be mentally  
17 ill.

18 So I feel a social worker is not sufficient  
19 enough to support mental illness or even be making a  
20 diagnosis of mental illness. That's another basis of my  
21 appeal.

22 THE COURT: Hold on just a minute, okay,  
23 Mr. Lyons?

24 MR. LYONS: Okay. I do want to bring it up --

25 THE COURT: Hold on just a minute. Okay?

1 MR. LYONS: Okay. No problem.

2 (Pause.)

3 THE COURT: I'm sorry. Go ahead.

4 MR. LYONS: I have the report of designated  
5 examiner for mental illness, and her name was Andrea  
6 Gantt. She says her degree is certified social worker,  
7 master social worker.

8 I mean, I can read it. Do you have a copy of  
9 this? It says, "Patient admitted. Aggression and  
10 bizarre behavior displayed in ER," which she was not  
11 there to observe.

12 "After being brought to ER by EMS and law  
13 enforcement" -- law enforcement wasn't there because I  
14 was brought in by law enforcement. If I was brought in  
15 by law enforcement, it would be different circumstances.

16 "Patient has been very grandiose and guarded  
17 with his responses. He complains of being held against  
18 his will and is demanding immediate release and/or  
19 hearing." Then "Patient has been" -- then there is  
20 nothing after that.

21 There is no -- I mean, it's an observation,  
22 but it's not like a designation that can be made to get  
23 to the point of mental illness. I don't know how to  
24 explain it. It's not sufficient.

25 Their argument is that if I was a danger, it

1 would be here. Grandiose and bizarre behavior is  
2 very -- can be different to different people. If she  
3 doesn't list the bizarre behavior, it's not a factual  
4 basis to determine mental illness.

5           It's not enough -- we are sitting here. She  
6 is not here and neither is the doctor. So they can't  
7 really say what it was, and it was never brought up in  
8 the hearing.

9           It was just that, "Do you think that he can  
10 take care of himself?" They said, "We feel that he  
11 cannot care for himself." I'm clearly able to take care  
12 of myself.

13           The other thing that gets me is the hearing  
14 wasn't held within 15 days. They had an opportunity --  
15 I know that the hearings were on Tuesday and Thursdays.  
16 So they passed the 15 days from date of admission.

17           They could have held the hearing on a Tuesday  
18 before the Thursday. They decided to just forego the 15  
19 days. They really didn't follow the section of laws  
20 appropriately is how I feel.

21           I know it's hard for me to explain in words.  
22 That's why I felt like if the order is affirmed, I am  
23 appealing from today. If I can explain it in a brief, I  
24 think I would do better.

25           I know that I wouldn't bring in anymore

1 evidence or anything like that. It's just pointing out  
2 things. I didn't know if I should have put it like a  
3 memorandum of laws together or anything like that.

4 I kind of wanted to try to keep it informal  
5 because one of the -- they mixed up a lot of stuff.  
6 They had the wrong address. I feel like the facts are  
7 false facts just to get whatever they wanted, which was  
8 involuntary hospitalization.

9 But I'm out. I'm doing well. I feel that a  
10 lot of this stuff was not accurate. So really the way  
11 it works, what was going on there was they had nurses  
12 that would observe you and write down what was going on.  
13 Then that would be reported back to the doctor.

14 I feel some of the reports that the doctor  
15 received that she drew her conclusions from were  
16 inaccurate. So she is basically taking it from a third  
17 party. She is saying -- it's third party information  
18 that she analyzed and put down into this report of  
19 designating the examiner.

20 You can see that because Andrea Gantt did the  
21 same thing. She was talking about what occurred in the  
22 ER. It's all third party, kind of other people's  
23 observations. They are just going off that.

24 I feel some of these -- I know -- did not  
25 happen. So it's based upon -- if you have one fact in

1 there that makes you draw a conclusion to something, it  
2 can throw off the entire thing.

3 That's why I really do feel that the specific  
4 type of serious harm thought probable if the person is  
5 not immediately hospitalized and the factual basis for  
6 this belief needed to be in there.

7 Because otherwise it just raises questions,  
8 and it's quite restricting on being adjudicated mentally  
9 ill. I can't get certain jobs. I wouldn't be able to  
10 run for office ever.

11 I just think just two pieces of paper that are  
12 from third party observations is not enough to call  
13 someone mentally ill. I just think that the facts  
14 aren't there. I know I'm not mentally ill.

15 THE COURT: Sir? What did you just say?

16 MR. LYONS: Oh, I know I'm not mentally ill.

17 THE COURT: All right. I will hear from  
18 Mr. Haile now. If you will be seated please, sir.

19 MR. LYONS: Yes, Your Honor.

20 THE COURT: Mr. Haile.

21 MR. HAILE: Thank you, Your Honor. Shelton  
22 Haile for the respondent, Richland Springs. There are  
23 two prongs to my argument. This first is this appeal is  
24 not timely.

25 Mr. Lyons had 15 days from the date of the

1 probate court order, which was March the 3rd; and he  
2 filed his appeal on April the 15th. There is no  
3 exception in the statute for being hospitalized or  
4 incapacitated. It's a 15-day standard, and he did not  
5 comply with that. That's my first argument.

6           The second argument is I don't think we are  
7 here to adjudicate whether or not Mr. Lyons is or is not  
8 mentally ill, which is the reason for the standard for  
9 hearings like this, being the circuit court may not  
10 disturb the probate court's finding of fact unless a  
11 review of the record discloses there is no evidence to  
12 support them. That's from the Matter of Howard, 315  
13 S.C. 356, 1993.

14           So the standard is not whether there is  
15 sufficient evidence, the standard is whether there is no  
16 evidence. I believe it's pretty clear there is some  
17 evidence as demonstrated via the designated examiner  
18 reports and also the Richland Springs records, a copy of  
19 which I brought with me; and I know you can't receive  
20 new evidence, but those records are what the designated  
21 examiner's report were based on.

22           I can hand up a copy if you would like to  
23 review that in camera if you need to see that. But the  
24 bottom line is there is some evidence to support the  
25 probate court's order. So if you find this appeal was

1 timely, given that legal standard, I don't think the  
2 order can be overturned.

3 THE COURT: I have got the file here, and it  
4 appears there are multiple attachments to the order  
5 regarding the habeas corpus and the order that you just  
6 referred to, the March 3rd order.

7 MR. HAILE: Yes, sir.

8 THE COURT: Along with numerous exhibits here  
9 concerning the emergency admission, along with the  
10 report of the designated examiner.

11 MR. HAILE: Yes, sir, two of them.

12 THE COURT: There's two of them?

13 MR. HAILE: There are two designated  
14 examiners.

15 THE COURT: Dr. McGough?

16 MR. HAILE: Dr. McGough and Angela Gantt, the  
17 social worker.

18 THE COURT: Those are in the file. Is that  
19 what you are referring to?

20 MR. HAILE: Yes, sir. The statute only  
21 requires that one of the designated examiners be a  
22 physician. So it's appropriate for Ms. Gantt as a  
23 social worker to be a designated examiner. It happens  
24 all the time.

25 THE COURT: Okay. I'm not exactly sure.

1 There is a CD in here as well. I assume that is from  
2 the hearing that I did not listen to.

3 Anything else, Mr. Haile?

4 MR. HAILE: I prepared a brief memorandum. I  
5 would normally submit that to you in advance of the  
6 hearing, but I did not have a good address for  
7 Mr. Lyons. The one letter I tried to send to him was  
8 returned.

9 THE COURT: Okay.

10 MR. HAILE: So I didn't want to submit that  
11 just to you before the hearing and be accused of ex  
12 parte communications. I can hand that up.

13 THE COURT: If you will give that to me and  
14 give a copy to Mr. Lyons, please.

15 MR. HAILE: Yes, sir.

16 (Hands to Court.)

17 THE COURT: All right. I will review what has  
18 been presented to me.

19 MR. LYONS: Your Honor?

20 THE COURT: Yes, sir.

21 MR. LYONS: Do you mind if I take the time to  
22 respond to the memorandum of law in opposition?

23 THE COURT: I will give you ten days to  
24 forward me a response memo, ten days from today. My law  
25 clerk here will write down the address which you can

1 send that to.

2 MR. LYONS: Okay.

3 THE COURT: And you need to copy Mr. Haile on  
4 whatever you send me. Make sure you send him a copy as  
5 well.

6 MR. LYONS: Yes, Your Honor.

7 THE COURT: Thank you very much.

8 \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*

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## C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal, in the Civil Court for Richland County, South Carolina, on the 10th day of June, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 29, 2016

*s/L. Coconut Pantsari*

Court Reporter

STATE OF SOUTH CAROLINA )  
COUNTY OF Richland )

IN THE PROBATE COURT

2016 FEB 25 PM 12:04

(PARTY)  
Deborah Saucé  
(Applicant)

AMY W. McCULLOCH  
PROBATE CLERK  
RICHLAND COUNTY, S.C.  
OFFICE OF EMERGENCY ADMISSION  
APPOINTMENT OF DESIGNATED EXAMINERS

THE MATTER OF:  
Sean Lyons  
(A Person Alleged to be Mentally Ill)

THE JUDGE OF PROBATE COURT FOR THE ABOVE-NAMED COUNTY:

YOU ARE HEREBY NOTIFIED:

- 1) That the above-named Applicant filed an application for Emergency Admission alleging that the above-named person is mentally ill and because of such condition is likely to cause serious harm, as defined in Section 44-23-10(2), S.C. Code, 1976, as amended, if not immediately hospitalized.
- 2) That the above-named person alleged to be mentally ill was examined by a licensed physician, whose Certificate is attached hereto.
- 3) As a result thereof, he/she was admitted to Richland Springs

on the 18 day of February, 20 16, in accordance with Section 44-17-410, S.C. Code, 1976, as amended.

WHEREFORE, pursuant to Section 44-17-410(3), S.C. Code, 1976, as amended, the undersigned has forwarded to you the Application and Certificate of Licensed Physician, and requests the appointment of the two designated examiners listed below:

and this 19 day of February, 20 16.

Yolanda Mitchell  
(SIGNATURE OF MENTAL HEALTH REPRESENTATIVE)  
Yolanda Mitchell  
(TYPED NAME)  
Administrative Associate, Palmetto Health Baptist  
(TITLE NAME OF INSTITUTION)  
Taylor at Marlon Street Columbia, S.C. 29201  
(ADDRESS)  
(803) 296-5475  
(TELEPHONE)

APPOINTMENT OF TWO DESIGNATED EXAMINERS

ORDERED that Rleta McGough MD and Andrea Gantt, a licensed physician and shall examine the person alleged to be mentally ill. A report submitted to the Court within seven days from the date of admission as to the mental condition of said person alleged to be mentally ill and need for treatment.

this 25th day of February, 20 16,  
Columbia, South Carolina.

[Signature]  
JUDGE OF PROBATE COURT

FILED

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

2016 FEB 24 PH 12:01  
AMY W. MACILLOCH  
PROBATE JUDGE  
RICHLAND COUNTY, S.C.

IN THE PROBATE COURT  
CASE # 2016 MI40 0220

EX PARTE:

DEBORAH JOYCE

(Petitioner/Applicant)

IN THE MATTER OF:

SEAN LYONS

A Person Alleged to be Mentally Ill

NOTICE OF HEARING  
APPOINTMENT OF COUNSEL  
APPOINTMENT OF GUARDIAN AD LITEM  
APPOINTMENT OF DESIGNATED EXAMINERS

To: DEBORAH JOYCE  
SEAN LYONS  
M. L. Bartlett, Jr.  
Dr. Aleta Marie McGough  
Andrea Gantt, MSW

**NOTICE OF HEARING**

**YOU ARE HEREBY NOTIFIED** that, based on the Petition or Application filed in this matter and upon the report of a designated examiner or certificate of licensed physician following an examination of the above-named person alleged to be mentally ill, finding that said person is mentally ill, a hearing will be held at 08:30 AM, on the 3rd day of March, 2016 at Palmetto Richland Springs, 11 Medical Park Drive Columbia, SC 29203, for the purpose of taking testimony as to the mental condition of said person alleged to be mentally ill, at which you may appear, testify, and within the discretion of the Court, present and cross-examine witnesses and have an opportunity to present to the Court any and all relevant and material evidence bearing on this matter, appearing either in person or by counsel.

**YOU ARE FURTHER NOTIFIED** that the person's detention at Palmetto Richland Springs, a facility for the mentally ill, is based on conclusions and the underlying facts as contained in either the Petition for Judicial Admission and Report of Designated Examiner (if any), or the Application for Emergency Admission and the Certificate of Licensed Physician, a copy of which is attached.

**YOU ARE FURTHER NOTIFIED** that you have the right to request the names of the designated examiners and such other persons who will be called to testify and the substance of their proposed testimony.

**YOU ARE FURTHER NOTIFIED** that it must be provided by the presentation of clear and convincing evidence that said person alleged to be mentally ill is mentally ill, needs treatment and because of his/her condition:

- (1) Lacks sufficient insight or capacity to make responsible decisions with respect to his/her treatment; or
- (2) There is a likelihood of serious harm to himself/herself or others.

**APPOINTMENT OF COUNSEL**

**IT IS HEREBY ORDERED** that M. L. Bartlett, Jr., Esquire, Attorney of the South Carolina Bar, is hereby appointed as counsel of and for the person alleged to be mentally ill and is hereby charged with all the duties, responsibilities, powers and privileges conferred and made incumbent upon an Attorney at Law in such cases. Provided, however, that should a privately retained counsel be obtained by or for the said person alleged to be mentally ill and this Court is so notified, then, in that event, the aforesaid Court-appointed counsel shall be discharged as counsel in this case.

**APPOINTMENT OF GUARDIAN AD LITEM**

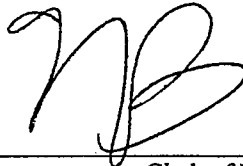
**IT IS ORDERED** that M. L. Bartlett, Jr., who is capable of understanding the rights of the person alleged to be mentally ill and who has no interest in conflict with or adverse to the rights of the person alleged to be mentally ill, is hereby appointed Guardian ad Litem of said person alleged to be mentally ill for the purpose of appearing for and acting on behalf of said person in all the proceedings herein, the said Guardian ad Litem having consented to act as Guardian ad Litem for said person alleged to be mentally ill for the purposes of the above-entitled action.

**EXAMINATION BY TWO DESIGNATED EXAMINERS**

**IT IS ORDERED** that Dr. Aleta Marie McGough, a licensed physician and Andrea Gantt, MSW shall examine the person alleged to be mentally ill and report without delay to this Court their respective written findings as to the mental condition of said person alleged to be mentally ill and his/her need for treatment.

**IT IS SO ORDERED**

Dated this 24th day of  
February, 2016  
at Columbia, South Carolina



\_\_\_\_\_  
Clerk of Probate Court  
(Commitment Division)

**ORDER OF SUBSTITUTION**

The corresponding appointments listed above are hereby rescinded by the following substitute appointments:

Counsel: \_\_\_\_\_

Guardian Ad Litem: \_\_\_\_\_

Designated Examiner: \_\_\_\_\_  
(Licensed Physician)

Designated Examiner: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge of Probate Court

STATE OF SOUTH CAROLINA

Palmetto Richland Springs,

Respondent,

v.

Sean Lyons,

Appellant.

IN THE COURT OF COMMON PLEAS OF THE  
FIFTH JUDICIAL CIRCUIT

NOTICE OF INTENTION TO APPEAL  
AND GROUNDS FOR THE APPEAL  
[S.C. Code Ann. § 44-17-620]

Case No.: \_\_\_\_\_

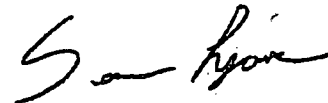
2016 APR 15 PM 12:17

YOU ARE HEREBY NOTIFIED THAT Sean Lyons appeals the order ORDER of the Associate Probate Judge Jacqueline D. Kelton dated March 3, 2016 from PROBATE CASE NO. 2016-MI40-0220. Appellant has not received written notice of entry of this order ORDER, only that on April 11, 2016 an unfiled order was delivered to Mr. Lyons. Appellant was released from hospital on March 31, 2016 and was unable to file any proper appeal until that time, and this is the earliest, and within 15 days to appeal pursuant to S.C. Code Ann. 44-17-620.

The grounds for the appeal as required by S.C. Code Ann. 44-17-620 are:

1. One of the examiners is not a physician but a social worker.
2. Sean Lyons is not mentally ill.
3. The social worker did not observe Sean Lyons in an approved/professional manner that a person could determine mental illness or not.
4. The physician, Aleta McGough, M.D., and the social worker, Andrea Gannt, work too closely together, which required Gannt to rely upon McGough because Gannt didn't have enough confidence to make her own findings
5. Gannt constantly denied Sean Lyons filing of court documents, showing she should have recused herself as an examiner.
6. McGough made an observation of another patient and confused Sean Lyons with that patient, but Gannt went along with it, even though it was contradictory to my behavior.
7. Sean Lyons was never given any examination findings before the court hearing (S.C. Code Ann. § 44-17-410)
8. Sean Lyons was never told that Andrea Gannt was one of his examiners even though he had requested to be told who his examiners were.
9. The hearing was not within fifteen (15) days of the date of admission to Palmetto Health Care.

April 15, 2016



Sean Lyons  
8310 Two Notch Rd.  
Columbia, SC 29223

714-430-0367

SeanLyons144@Outlook.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	CIVIL ACTION NO. 2016-CP-40-2459
	)	
Sean Lyons,	)	
	)	
Appellant,	)	<b>RESPONDENT'S MEMORANDUM</b>
	)	<b>OF LAW IN OPPOSITION</b>
v.	)	
	)	
Palmetto Richland Springs,	)	
	)	
Respondent.	)	
	)	
	)	

Respondent Palmetto Richland Springs files this Memorandum of Law in opposition to the current appeal, and would show the Court as follows:

**I. Appellant Failed to Timely Appeal**

Under South Carolina law, all appeals of judicial commitment must be made within fifteen (15) days of the order's issuance. S.C. Code Ann. § 44-17-620. In order to properly appeal, a party must file both a notice of intention to appeal and their grounds for appeal within the prescribed deadline. Appeals made outside of this fifteen-day limitation are overwhelmingly dismissed. E.g. Argoe v. Three Rivers Behavioral Health, L.L.C., 392 S.C. 462, 471, 710 S.E.2d 67, 72 (2011); Mims v. Alston, 312 S.C. 311, 440 S.E.2d 357 (1994) (holding that plaintiff's memorandum of law seeking release did not satisfy requirement to file grounds of appeal).

The Probate Court in this case issued an Order of Detention on or around March 3, 2016. Accordingly, Appellant Lyons must have filed this appeal no later than March 18, 2016. The statute does not provide for any excuses permitting late filing, including detention as asserted by Appellant Lyons. See S.C. Code Ann. § 44-17-620. Because Appellant failed to appeal in a timely manner, this Court should dismiss the current suit.

## II. The Probate Court Order Should Be Upheld as a Matter of Law

This Court should defer to the Probate Court Judge's Order and uphold the ruling below. Prior to entering an order of judicial commitment, the court must appoint two designated examiners, each of which must give a report about the person's mental status. "If the report of the designated examiners is to the effect that they are of the opinion that the person is mentally ill and involuntary treatment is required, the court shall conduct a hearing." S.C. Code Ann. § 44-17-540. South Carolina law states:

A patient is entitled to a reexamination on the patient's own petition or that of any other interested person to the probate court of the county from which the patient was admitted. . . . Upon receipt of the petition the court shall conduct proceedings . . . except that the proceedings may not be required to be conducted if the petition is filed sooner than six months after the issuance of the order for treatment or sooner than three months after the holding of a hearing pursuant to this section.

S.C. Code Ann. § 44-17-630. If the probate court, upon concluding the hearing and considering the record and the designated examiners' reports, finds by way of clear and convincing evidence that the person is mentally ill and needs involuntary treatment, the court "shall order in-patient or out-patient treatment at a mental health facility." S.C. Code Ann. § 44-17-580.

When assessing appeals of probate court orders, "the circuit court may not disturb the probate court's findings of fact unless a review of the record discloses there is no evidence to support them." Matter of Howard, 315 S.C. 356, 361, 434 S.E.2d 254, 257 (1993) (citing Adams v. B&D, Inc., 297 S.C. 416, 377 S.E.2d 315 (1989)). The Probate Court Order should not be "disturbed on appeal unless found to be without evidentiary support." Dean v. Kilgore, 313 S.C. 257, 259, 437 S.E.2d 154, 155 (Ct. App. 1993).

The Probate Court Record delivered to this Court provides numerous sources of evidentiary support, including the reports of the designated examiners. Additionally, Respondent Palmetto Richland Springs' medical records pertaining to Appellant Lyons lend support to the necessity of

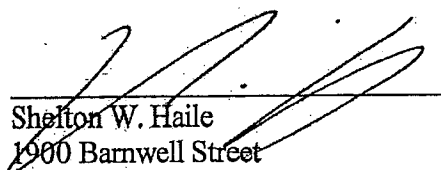
the prescribed confinement and treatment. (Ex. #1) This Court should uphold the Probate Court's ruling as there is evidentiary support for the Probate Court's Order of Judicial Commitment.

**Conclusion**

For the reasons set forth above, Respondent asks this Court to uphold the Probate Court's order, to dismiss all claims against it with prejudice and to award it any other and further relief the Court deems just and appropriate under the circumstances.

Respectfully submitted,

**RICHARDSON PLOWDEN & ROBINSON, P.A.**



---

Shelton W. Haile  
1900 Barnwell Street  
Post Office Drawer 7788  
Columbia, South Carolina 29202  
(803) 771-4400  
[shaile@richardsonplowden.com](mailto:shaile@richardsonplowden.com)  
**ATTORNEY FOR RESPONDENT**

June 10, 2016

STATE OF SOUTH CAROLINA,  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS  
) OF THE FIFTH JUDICIAL CIRCUIT  
)  
) CIVIL ACTION NO. 2016-CP-400-2459  
)

Sean Lyons,

Appellant,

v.

Palmetto Richland Springs,

Respondent.

) APPELLANT SEAN LYONS' RESPONSE  
) TO RESPONDENT'S MEMORANDUM  
) OF LAW IN OPPOSITION  
)

) Attachments:

) RESPONDENT'S MEMORANDUM OF  
) LAW IN OPPOSITION (EXHIBIT A)  
)

Appellant Sean Lyons herein gives RESPONSE to RESPONDENT'S MEMORANDUM OF LAW IN OPPOSITION (hereafter referred to as, Exhibit A) dated June 10, 2016:

I. **Respondent Is Misleading the Court When Replacing Shall with Must, Which Changes the Interpretation of the Law to a Less Than Discretionary Interpretation.**

Respondent, in his opposition, cites S.C. Code Ann. § 44-17-620, which actually states that, "The notice of intention to appeal together with the grounds for the appeal *shall* be filed in the probate court and the court of common pleas within fifteen days of the order issued...". In Exhibit A paragraph I, Respondent mislead the court, putting the word "must", when actually the statute uses the word "shall". Must would have a stronger meaning of requirement than shall, but since the statute does not name a consequence for not filing within fifteen days, it does not divest the court of jurisdiction.

"Statutory time period is not mandatory unless it both expressly requires [action] within a particular time period and specifies a consequence for failure to comply with the

provision.” In re Williams, 330 F.3d 277, 280 (4th Cir. 2003) (citing In re Siggers, 132 F.3d 333, 336 (6th Cir. 1997)). Therefore, the statute could have used a stronger word such as the word *must*, but instead uses the word shall as a means to make it clear that that an appeal pursuant to S.C. Code Ann. § 44-17-620, should be filed as soon as practically possible.

Lyons has filed the appeal timely, at the earliest possible date, days after receiving actual notice of the order and just shortly after being released from the hospital. Not a year, not a month... days.

**II. Respondent Also Misleadingly Mentions a Case Dealing with a Collateral Action to Reverse an Order for Involuntary Civil Commitment.**

Respondent in paragraph 1 of Exhibit A, mentions Argoe v. Three Rivers Behavioral Health, L.L.C., 392 S.C. 462, 710 S.E.2d 67 (2011) without citation. Incorrectly interpreting it as being relevant to a proceeding based upon S.C. Code Ann. § 44-17-620. The aforementioned appeal was a collateral attack of the underlying order, not an appeal. It was a suit against the hospitals for multiple causes of actions in hopes of invalidating the order. Yes, S.C. Code Ann. § 44-17-620 is mentioned as the vehicle that should have been used, but that it would not help the appellant in that appeal anyway, because it was too late.

The decision in Argoe v. Three Rivers Behavioral Health, L.L.C. is different, because Argoe was not situated the same way as Lyons is in this appeal. Lyons has actually filed an appeal, not a civil case collaterally attacking the underlying order. The

appellant in the other case didn't even attempt to file a late appeal, she continued on the path of a civil lawsuit against the hospital.

Argoe's causes of actions were actually dismissed on the grounds that, because she did not timely file an appeal, it "precluded [her] collateral attack on alleged erroneous underlying order." *Id.* at 471.

**III. The Report of Designated Examiner for Mental Illness, Should Not Be Viewed as Evidence of Fact or a Finding of Facts.**

Expert opinion testimony based upon the evidence of unreliable unknown third parties, makes those opinions unreliable. Rule 703, SCRE, states:

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

Though the rule does allow an expert to use evidence, that might not otherwise be admissible, such as hearsay, to formulate an opinion, it "does not allow for the unqualified admission of hearsay evidence merely because an expert has used it in forming an opinion." Jones v. Doe, 372 S.C. 53, 63 (2006). The Reports of Designated Examination for Mental Illness, hereafter referred to as Reports, include hearsay from unqualified sources, which should not be allowed as evidence. "[T]he expert may testify to evidence even though it is inadmissible under the hearsay rule, but allowing the evidence to be received for this purpose does not mean it is admitted for its truth." Jones v. Doe, 372 S.C. 53, 63 (2006).

The Reports were filled out using observations of other unknown hospital workers, who very well may have been unpaid interns. Instead of formulating a specific basis using medical interpretation or a standardized test, the Reports just contain a bunch of hearsay and a checkbox for mental illness, not one scrap of medical jargon to substantiate anything, just a regurgitation of inadmissible evidence. This makes it impossible to argue if the standard to consider Lyons mentally ill was a recognized standard to be able to determine mental illness. These Reports, instead, are structured in such a manner, that requires the Court to draw conclusions from inadmissible evidence.

It goes without question; the Reports are unreliable. Which makes these Reports very misleading to the actual facts of this case, as they are merely incompletely formulated conclusions from unknown opinions that, in their entirety, should not be treated as truth or fact of any kind and the Reports should be struck from the record.

There needs to be further corroborating evidence and at the very least some use of expert interpretation in these Reports to be admissible as evidence of fact. This is why it is important that these Reports follow strictly the law as set forth in S.C. Code Ann. § 44-17-410, which requires, "...(1) written affidavit under oath by a person stating: (a) a belief that the person is mentally ill and because of this condition is likely to cause serious harm to himself or others if not immediately hospitalized; (b) the specific type of serious harm thought probable if the person is not immediately hospitalized and the factual basis for this belief;..." None of the examinations or Reports mention any admissible "factual basis" for their beliefs or any "specific type of harm thought probable", for the likely reason that, there is no rational factual basis and that the Respondent cannot come up with a probable harm. If a specific type of harm thought probable was stated, it would at least be a

formulated opinion based upon the opinions and facts at hand of the expert, but instead the Reports are absent of this.

Therefore, if the unreliable Reports are stricken from the record, as they should be, there is absolutely no evidence and no findings of fact, of any kind, to support a finding of mental illness. Respondent calls these Reports as the “evidentiary support” (Exhibit A, pg 2), but they are not even close to being able to be acceptable as evidentiary support, because of the way they are framed.

#### **IV. Excessive Amount of Errors Are Grounds for Reversal.**

The Respondent has made so many errors of law, that this order should be reversed. There can be no reason why the laws of a proceeding for involuntary commitment couldn't have been adhered to more strictly by the Respondent. The Probate Court's Order cannot be affirmed. The procedures and laws of Chapter 17 of Title 44 of South Carolina Code of Laws are in place to make sure the evidence is substantial when adjudicating someone mentally ill, or placing them for commitment.

Part I and Part II Certificate of Licensed Physician Mental Examination for Psychiatric Treatment, are incomplete. It's supposed to be an affidavit with the requirements set forth in S.C. Code Ann. § 44-17-410.

Hearing was not held in accordance of S.C. Code Ann. § 44-17-410, “...within fifteen days from the date of admission.” Lyons was admitted on February 16, 2016 and a hearing wasn't held until (16) sixteen days later on March 3, 2016.

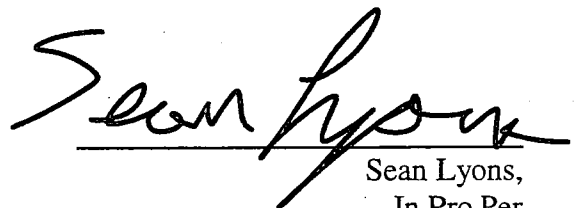
One of the examiners, Andrea Gantt, was only a certified master social worker. A certified master social worker is unqualified to make a diagnosis or draw conclusions from,

wherever it may be, to formulate an opinion that will substantiate a claim of mental illness. It's important that expert testimony be given by true experts in their field of expertise, especially medical opinions. A case from the Federal Fourth Circuit Court of Appeals states it best, "[T]he court must recognize that due to the difficulty of evaluating their testimony, expert witnesses have the potential to "be both powerful and quite misleading"... And, given the potential persuasiveness of expert testimony, proffered evidence that has a greater potential to mislead than to enlighten should be excluded." Westberry v. Gislaved Gummi AB, 178 F.3d 257, 261 (4th Cir. 1999).

**Conclusion**

For all the reasons set forth herein, Appellant requests that the court please reverse the Probate Court's Order dated March 3, 2016.

**Date:** June 13, 2016



Sean Lyons,  
In Pro Per  
8310 Two Notch Road  
Columbia, SC 29223  
SeanLyons144@outlook.com  
714-430-0367

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	CIVIL ACTION NO. 2016-CP-40-2459
	)	
Sean Lyons,	)	
	)	
Appellant,	)	<b>RESPONDENT'S MEMORANDUM</b>
	)	<b>OF LAW IN OPPOSITION</b>
v.	)	
	)	
Palmetto Richland Springs,	)	
	)	
Respondent.	)	
	)	
	)	

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Respondent Palmetto Richland Springs files this Memorandum of Law in opposition to the current appeal, and would show the Court as follows:

**I. Appellant Failed to Timely Appeal**

Under South Carolina law, all appeals of judicial commitment must be made within fifteen (15) days of the order's issuance. S.C. Code Ann. § 44-17-620. In order to properly appeal, a party must file both a notice of intention to appeal and their grounds for appeal within the prescribed deadline. Appeals made outside of this fifteen-day limitation are overwhelmingly dismissed. E.g. Argoe v. Three Rivers Behavioral Health, L.L.C., 392 S.C. 462, 471, 710 S.E.2d 67, 72 (2011); Mims v. Alston, 312 S.C. 311, 440 S.E.2d 357 (1994) (holding that plaintiff's memorandum of law seeking release did not satisfy requirement to file grounds of appeal).

The Probate Court in this case issued an Order of Detention on or around March 3, 2016. Accordingly, Appellant Lyons must have filed this appeal no later than March 18, 2016. The statute does not provide for any excuses permitting late filing, including detention as asserted by Appellant Lyons. See S.C. Code Ann. § 44-17-620. Because Appellant failed to appeal in a timely manner, this Court should dismiss the current suit.

## II. The Probate Court Order Should Be Upheld as a Matter of Law

This Court should defer to the Probate Court Judge's Order and uphold the ruling below. Prior to entering an order of judicial commitment, the court must appoint two designated examiners, each of which must give a report about the person's mental status. "If the report of the designated examiners is to the effect that they are of the opinion that the person is mentally ill and involuntary treatment is required, the court shall conduct a hearing." S.C. Code Ann. § 44-17-540. South Carolina law states:

A patient is entitled to a reexamination on the patient's own petition or that of any other interested person to the probate court of the county from which the patient was admitted. . . . Upon receipt of the petition the court shall conduct proceedings . . . except that the proceedings may not be required to be conducted if the petition is filed sooner than six months after the issuance of the order for treatment or sooner than three months after the holding of a hearing pursuant to this section.

S.C. Code Ann. § 44-17-630. If the probate court, upon concluding the hearing and considering the record and the designated examiners' reports, finds by way of clear and convincing evidence that the person is mentally ill and needs involuntary treatment, the court "shall order in-patient or out-patient treatment at a mental health facility." S.C. Code Ann. § 44-17-580.

When assessing appeals of probate court orders, "the circuit court may not disturb the probate court's findings of fact unless a review of the record discloses there is no evidence to support them." Matter of Howard, 315 S.C. 356, 361, 434 S.E.2d 254, 257 (1993) (citing Adams v. B&D, Inc., 297 S.C. 416, 377 S.E.2d 315 (1989)). The Probate Court Order should not be "disturbed on appeal unless found to be without evidentiary support." Dean v. Kilgore, 313 S.C. 257, 259, 437 S.E.2d 154, 155 (Ct. App. 1993).

The Probate Court Record delivered to this Court provides numerous sources of evidentiary support, including the reports of the designated examiners. Additionally, Respondent Palmetto Richland Springs' medical records pertaining to Appellant Lyons lend support to the necessity of


the prescribed confinement and treatment. (Ex. #1) This Court should uphold the Probate Court's ruling as there is evidentiary support for the Probate Court's Order of Judicial Commitment.

**Conclusion**

For the reasons set forth above, Respondent asks this Court to uphold the Probate Court's order, to dismiss all claims against it with prejudice and to award it any other and further relief the Court deems just and appropriate under the circumstances.

Respectfully submitted,

**RICHARDSON PLOWDEN & ROBINSON, P.A.**



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[shaile@richardsonplowden.com](mailto:shaile@richardsonplowden.com)  
**ATTORNEY FOR RESPONDENT**

June 10, 2016

REPORT OF DESIGNATED EXAMINER FOR MENTAL ILLNESS

Name of Person Examined <b>Sean Lyons</b>	Sex <b>M</b>	Height	Weight	Age	Hair	Eyes	DOB	SS#	County of Residence
Place of Examination <b>Richland Springs</b>					Hour and Date of Examination <b>2-22-16 @ 10 AM</b>				
Name of Designated Examiner <b>A. Marie McGough</b>			Degree <b>MD</b>		Place of Professional Employment <b>Richland Springs</b>				

I, THE UNDERSIGNED EXAMINER, having been directed by Probate Court Order to do so, have examined the above-named person, considered previous hospitalization records and am of the opinion that the said individual:  
(Check appropriate boxes.)

**IS MENTALLY ILL, NEEDS INVOLUNTARY TREATMENT AND BECAUSE OF THIS MENTAL ILLNESS:**

Lacks sufficient insight or capacity to make responsible decisions with respect to his/her treatment,

AND / OR

There is a likelihood of serious harm to self or others:

AND THEREFORE,

- (1)  **INVOLUNTARY HOSPITALIZATION IS RECOMMENDED.**
- (2)  **INVOLUNTARY OUTPATIENT TREATMENT IS RECOMMENDED.**

My recommendation is based on the following symptoms and specific examples of behavior:

*Pt remains guarded, evasive, & delusional.  
He refuses to provide history information.  
He has been agitated and sexually inappropriate.  
He exhibits illogical thought process. The pt has written a writ of habeas corpus and insists I am imprisoning him unlawfully. He demonstrates impaired insight/judgment.  
Given impairment in thought process & content, he remains a danger to himself/others, in need of mandatory treatment.*

(See reverse side which must be completed.)

All Information MUST be typed or clearly printed.

2016 FEB 25 PM 12:05  
 AMY M. HOGUE, LOCH  
 PROBATE JUDGE  
 RICHLAND COUNTY, S.C.

FILED

II.  IS NOT MENTALLY ILL to such an extent that involuntary treatment is presently required.

My recommendation is based on the following observations and opinions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

My recommendation for additional treatment on a voluntary basis is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



A. Marie McGough, MD

MD  
DEGREE

29775  
MEDICAL OR PROFESSIONAL LICENSE NO.  
803-434-4800

TYPED OR PRINTED NAME OF DESIGNATED EXAMINER

11 Richland Medical Park Drive

Columbia

PHONE NUMBER

Richland 29203

STREET ADDRESS

CITY

COUNTY

ZIP

**NOTE:** (1) "Mentally ill person" means a person afflicted with a mental disease to such an extent that, for his own welfare or the welfare of others or of the community, he requires care, treatment or hospitalization;

(2) "Likelihood of serious harm" means because of mental illness there is (1) a substantial risk of physical harm to the person himself as manifested by evidence of threats of, or attempts at, suicide or serious bodily harm; (2) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior and serious harm to them or (3) a very substantial risk of physical impairment or injury to the person himself as manifested by evidence that the person's judgment is so affected that he is unable to protect himself in the community and that reasonable provision for his protection is not available in the community;

All information MUST be typed or clearly printed.

REPORT OF DESIGNATED EXAMINER FOR MENTAL ILLNESS

Name of Person Examined <i>Sean Lyons</i>	Sex <i>M</i>	Height <i>6.4</i>	Weight <i>227</i>	Age <i>30</i>	Hair <i>Br.</i>	Eyes <i>.</i>	DOB <i>10/25/85</i>	SS# <i>?</i>	County of Residence <i>Richland</i>
Place of Examination <i>Richland Springs #</i>					Hour and Date of Examination <i>4:55 2/23/16</i>				
Name of Designated Examiner <i>Andrea Gantt</i>			Degree <i>LMSW</i>		Place of Professional Employment <i>Palmetto Health</i>				

I, THE UNDERSIGNED EXAMINER, having been directed by Probate Court Order to do so, have examined the above-named person, considered previous hospitalization records and am of the opinion that the said individual:  
(Check appropriate boxes.)

I.  IS MENTALLY ILL, NEEDS INVOLUNTARY TREATMENT AND BECAUSE OF THIS MENTAL ILLNESS:

Lacks sufficient insight or capacity to make responsible decisions with respect to his/her treatment

AND / OR

There is a likelihood of serious harm to self or others:

AND THEREFORE,

(1)  INVOLUNTARY HOSPITALIZATION IS RECOMMENDED.

(2)  INVOLUNTARY OUTPATIENT TREATMENT IS RECOMMENDED.

My recommendation is based on the following symptoms and specific examples of behavior:

*Patient admitted d/t aggression and bizarre behavior displayed in ED after being brought to the ED by EMS and law enforcement to Pt. has been very grandiose and guarded & his responses. He complains of being held against his will and is demanding immediate release and/or hearing. Patient has been*

2016 FEB 25 PM 12:05  
 JIM M. MCCULLOCH  
 PROBATE JUDGE  
 RICHLAND COUNTY, S.C.

F-11-EN

(See reverse side which must be completed.)

All information MUST be typed or clearly printed.

II.  IS NOT MENTALLY ILL to such an extent that involuntary treatment is presently required.

My recommendation is based on the following observations and opinions:

[Crossed out section for observations and opinions]

My recommendation for additional treatment on a voluntary basis is:

[Crossed out section for additional treatment recommendation]

*Andre Hart* LMSW 6932

SIGNATURE OF DESIGNATED EXAMINER DEGREE MEDICAL OR PROFESSIONAL LICENSE NO.

*Andrea Gant* 434-2491

TYPED OR PRINTED NAME OF DESIGNATED EXAMINER PHONE NUMBER

*11 Medical Park Columbia (Richland) 29203*

STREET ADDRESS CITY COUNTY ZIP

NOTE: (1) "Mentally ill person" means a person afflicted with a mental disease to such an extent that, for his own welfare or the welfare of others or of the community, he requires care, treatment or hospitalization;

(2) "Likelihood of serious harm" means because of mental illness there is (1) a substantial risk of physical harm to the person himself as manifested by evidence of threats of, or attempts at, suicide or serious bodily harm; (2) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior and serious harm to them or (3) a very substantial risk of physical impairment or injury to the person himself as manifested by evidence that the person's judgment is so affected that he is unable to protect himself in the community and that reasonable provision for his protection is not available in the community;

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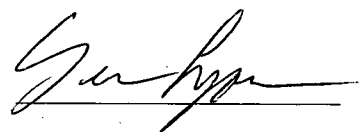
JAN 03 2017

**SC Court of Appeals**

**APPELLANT'S CERTIFICATE**

I, Sean Lyons, the appellant, do hereby certify that the foregoing is a true, accurate, and a complete Record on Appeal as designated by both Appellant's and Respondent's "Designation of Matter To Be Included In the Record On Appeal."

December 14, 2016



Sean Lyons