THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable D. Craig Brown, Circuit Court Judge

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

Sean Lyons, Appellant,

v.

Palmetto Richland Springs, Respondent.

FINAL BRIEF OF APPELLANT

Sean Lyons
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Columbia, SC 29223
(714) 430-0367

In Pro Per

TABLE OF AUTHORITIES

CASES

STATUTES

STATEMENT OF ISSUES ON APPEAL

1. DOES THE APPELLANT STILL HAVE THE RIGHT TO APPEAL THE PROBATE COURT ORDER EVEN AFTER FIFTEEN DAYS?

2. WAS IT THE ACTIONS OF THE RESPONDENT THAT CAUSED THE DELAY OF FILING HIS APPEAL?

3. WAS APPELLANT REQUIRED TO BE GIVEN ACCESS TO LAW AND DID THIS LACK OF ACCESS TO A LAW LIBRARY OR LAW MATERIAL INJURE APPELLANT TO THE POINT THAT IT DENIED HIM HIS RIGHT TO APPEAL?

STATEMENT OF THE CASE

On February 19th, 2016, an Application for Involuntary Emergency Hospitalization for Mental Illness was filed regarding Sean Lyons, alleging that Sean Lyons was mentally ill and was a danger to self or others. The specific type of serious harm thought probable was not stated in the application.

How Sean Lyons came to be in the situation to be alleged to be mentally ill was that on February 16, 2016 he was initially hospitalized after being brought to the emergency room by ambulance. Mr. Lyons was out for a morning jog when he stumbled upon a gun. When reporting this to the police, an ambulance arrived. It was at this moment, police gave Sean Lyons the option of either going to jail for 30 days, for not being able to provide proper identification, or get into the ambulance. Sean Lyons chose to enter the ambulance and requested to be transported to Palmetto Richland Springs.

On March 3, 2016 the Application of Involuntary Emergency Hospitalization for Mental Illness came before the Associate Probate Judge Jacqueline Belton. It is at this hearing the observations made over the previous two weeks were read to the court. The Respondent made allegations of sexual harassment and further alleged that Appellant was talking about bombs. It is the Appellant's assumption that these are the reasons the court found in favor of the Respondent at the initial hearing of mental illness. There is absolutely no documentary evidence supporting these allegations.

Sean Lyons continued to be hospitalized for an approximately 3 additional weeks after the hearing and was released on March 31, 2016. He was ordered for outpatient treatment for a period not to exceed 12 months from the date of the March 3, 2016 Order.

Appellant, Sean Lyons, appealed the order at the earliest possible time. You have to remember that when you're in a mental hospital, it's not like jail, you don't get access to a law library, writing utensils, mail system, or court. There are no requirements for the hospital to serve court documents, or file documents to the court for you. Making it impossible to file an appeal any earlier than April 15, 2016. It was on this date that Appellant filed with the Court of Common Pleas of the Fifth Judicial Circuit a Notice of Intention to Appeal and Grounds for the Appeal, pursuant to applicable law.

On June 10, 2016, the Appellant in this case, as was also the Appellant in the lower court, Sean Lyons' appeal came before a hearing. At this hearing the Appellant laid out the case for the absent of evidence supporting mental illness. The Respondent argued that the appeal was filed untimely. It was at this time that the Sean Lyons requested time to answer Respondents argument about the strict fifteen days to appeal the order from March 3, 2016. The Court took the case under advisement awaiting Sean Lyons' response. There ultimately was no response from the Court, but the Respondent did file, on or around June 30, 2016, a proposed order for the Judge to sign. The defective proposed order was subsequently signed. It does not appear that the lower Court received Appellant's reply to Respondent's argument, though it was filed. It appears the lower court allowed the Respondent's attorney to write the final order, trusting in the attorney, that the order submitted, would conform to the law and that it would be the Respondent's attorney who would have to be responsible for an order that would withstand an appeal.

The order, finding that the Appellant's appeal in the Court of Common Pleas was not timely filed, was signed on July 7, 2016 and filed in the Court of Common Pleas, Fifth Judicial Circuit in the county of Richland, July 15, 2016.

Appellant's Notice of Appeal from the lower courts order was filed with The South Carolina Court of Appeals on July 22, 2016. Appellant's Notice of Appeal was served on Respondent on July 25, 2016.

ARGUMENTS

I. FIFTEEN DAYS TO FILE AN APPEAL IS SO INSUFFICIENT, UNDER THE CIRCUMSTANCES, THAT IT BECOMES A DENIAL OF JUSTICE.

The procedure for appealing a probate order for involuntary commitment to a hospital is set forth in S.C. Code Ann. § 44-17-620. It states, "The petitioner or the person shall have the right to appeal from any order of the probate court issued pursuant to Section 44-17-580 to the court of common pleas of the county where the probate court is situated. 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 date of the order issued pursuant to Section 44-17-580."

Either fifteen days is an insufficient amount of time or the Respondent is responsible for not allowing Appellant access to the court. Therefore, the Respondent cannot argue that fifteen days is a strict limitation, because the Respondent themselves have caused the Appellant's short delay in filing his appeal.

There have been no published cases for somebody in the position that the Appellant is in under this appeal. The Appellant has properly filed, according to S.C. Code Ann. § 44-17-620 the required intention to appeal together with the ground for appeal, at the earliest possible time. Well within an acceptable time frame, considering the circumstances. It was impossible to secure an attorney, or find the

specific law necessary to appeal the probate order until, Lyons was out of the hospital. This is due to the fact that the Respondent did not provide any access to any legal documents, experts, and is attempting to deny Lyons of his right to appeal through constructive tactics.

There is a lot on the line if the Respondent loses this appeal. They will stop at nothing to lie and ignore the Appellant and his valid legal arguments and use invalid cases that deal with scenarios that aren't even similar to this case. It's up to the court to understand the position that the Appellant's perceived delay of filing is through no fault of his own, but through the direct denial of access to the court while under the care of the Respondent.

Generally, "[T]he courts will not inquire into the wisdom of the legislative decision in establishing the period of legal bar, unless the time allowed is manifestly so insufficient that the statute becomes a denial of justice." Hite v. Town of West Columbia, 220 S.C. 59, 66 S.E.2d 427 (1951). Fifteen days is such an insufficient amount of time, that this Court must allow Lyons' appeal to be allowed on the merits of his case and not denied because of the time of the filing.

II. APPEAL MUST BE ACCEPTED AS TIMELY AND A NEW HEARING HELD, AS THE APPELLANT WAS CONFINED TO A HOSPITAL MAKING IT IMPOSSIBLE TO FILE AN APPEAL ANY EARLIER.

The Appellant, Sean Lyons, was unable to file an appeal while confined to the hospital. The limits of what is possible to pursue a legal appeal in a hospital comes

down to the restrictions placed upon the patient. The restrictions placed upon Lyons at the time, made it impossible to pursue an appeal while hospitalized.

Prisoners that are confined to jail are required to be given access to a law library, why wouldn't a patient, who also has to defend against their confinement, be required to be given the same accommodations? Palmetto Richland Springs did not provide adequate access to the court, access to law, or a legal representative to assist in any appeal. If they take the responsibility to commit patients, they should take the responsibility to give access to law, otherwise it's just a one-way street in favor of the Respondent.

For prisoners, the court cases that lay out the requirement for a prisoner's access to law is Bounds v. Smith, 430 U.S. 817, 97 S.Ct. 1491, 52 L.Ed.2d 72 (1977) and Hendricks v. South Carolina Dept. of Corrections, 385 S.C. 625, 686 S.E.2d 191 (2009). The Supreme Court of the United States found, "the fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law." Bounds v. Smith, 430 U.S. 817, 828.

The Respondent in this case took advantage of the Appellant's lack of access to a law library or access to a person trained in the law, and is now claiming that the appeal was not filed timely (R. pp. 5-6, Transcript of Proceedings, R. p 22 line 25, R. p 23 lines 1-5). It's shameful that the Respondent's attorney will perpetuate any argument possible to shield Respondent from possible further civil liability. An attorney should know better than try to deny access to the court. The Respondent

knew very well that Appellant was at a disadvantage until release from confinement of the hospital and is now taking advantage of the situation and trying to further deny the Appellant from a proper appeal.

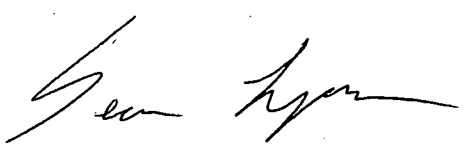
Even if confined patients aren't afforded the same requirement as the confinement of a prisoner, as it comes to access of the courts, the Respondent still played a role in denying court access and is continuing to try to deny Lyons from access to a proper appeal. This case should never have been denied on the grounds of an untimely filing, one of the only ways to cure this, is to send this case back to the lower court for a re-hearing on the lack of evidence to support a finding of mental illness.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court and order for a rehearing with the understanding that Lyons' appeal to the circuit court should be considered timely so that a proper hearing may be held strictly on the issue of sufficiency of evidence to support mental illness.

Respectfully submitted,

December 30, 2016



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CERTIFICATION: FINAL BRIEF OF APPELANT COMPLIES WITH RULE 211(b)

I, Sean Lyons, certify that I have complied with rule 211(b), SCACR in preparing FINAL BRIEF OF APPELLANT.

December 31, 2016

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