

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Brian M. Gibbons, Circuit Court Judge

IN THE MATTER OF THE CARE AND TREATMENT
OF ROBBIE CARROLL COLLINS

APPELLANT

APPELLATE CASE NO: 2017-002287

RECEIVED

OCT 26 2018

PRO SE BRIEF, OF APPELLANT

SC Court of Appeals

ROBBIE CARROLL COLLINS

PRO SE, Defender

CORRECT CARE, 6134

4546 Broad River Road

Columbia, SC 29210

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Brian M. Gibbons, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF ROBBIE CARROLL COLLINS,

APPELLANT

DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL

Appellant proposes the following be included in
the Record on Appeal:

- (1) State's Exhibit: A1 (Notice of Voluntary Dismissal)
Pursuant to S.C.R.C.P. 41(a)(1)
- (2) State's Exhibit: B-1-3 (Indictment's)
- (3) State's Exhibit: General Sessions Case History For Cases
1986GS201858, B551750, B599003, B551751 (Exhibit: B-4-7)
- (4) State's Exhibit: B-8 (SCDC OFFENDER Management System
Commitment Application Conviction Summary)
- (5) State's Exhibit: B-9 (Classing Summary Reports-Report View)
- (6) State's Exhibit: B10 (Sexual Predator Referral Form)

(7)

1 of 3

- (7) Defendant's Exhibit: C, (Center for Positive Family Living, INC. Dr. Paul S. Gunter, LMFT, LPC)
- (8) Defendant's Exhibit: C1-3, (Monthly Compliance Report Paul S. Gunter, LMFT, LPC)
- (9) Defendant's Exhibit: C4, (Clinical and Forensic, Evaluation dated 8.6.15) by: Amy C. Swan) (DSM-5 Diagnoses)
- (10) Defendant's Exhibit: C5, (SCDC Sex OFFENDER Treatment)
- (11) Defendant's Exhibit: D, D1-2, (Psychiatric Times) (DSM-5 Confirms That Rape Is Crime, Not Mental Disorder)
- (12) Defendant's Exhibit: D3-5, (The Latest Hypocrisy In SVP Expert Testimony) (Rape is crime not mental disorder)
- (13) Defendant's Exhibit: D6-10, (Allen J. Frances M.D. DSM-5 in Distress) (My Review of 28 Sexually Violent Predator Cases)
- (14) Defendant's Exhibit: E, (Amy C. Swan's Hare PCL-R 2nd Edition, Scoring Grid)
- (15) Defendant's Exhibit: F, F1-4, In reference: (Static 99-R Prior Sentencing Dates, The Three Victim Questions, Any Unrelated Victims; F3, Any Stranger Victims)
- (15) Defendant's Exhibit: F5, (Amy C. Swan's, "Static-99R Coding Form")
- (16) Defendant's Exhibit: F5-6, (Scoring the Static 99 & Computing the Risk Estimates) - (Appendix Seven Suggested Report Paragraphs for Communicating Static-99-Based Risk Information) (F8)
- (17) Defendant's Exhibit: F8, (In Reference: (Static 99-R)
- (18) State's Exhibit: G, (A sheet came out of Mr. Morrow's,

Petition Pursuant To Sexually Violent Predator Act)

(19) State's Exhibit: G1, SCDC Display Inmate Offense History) (Case # 00001 Abuse of Privileges, Minor Di)

(20) State's Exhibit: G2-3, (In Reference: Mr. Morrow's Civil Action Cover Sheet Petition Pursuant to SVP Act)

(21) Defendant's Exhibit: H, (Criteria For Future Dangerousness)

Robbie Carroll Collins

Pro Se, APPELLANT

Statement of Issue on Appeal

Does the attorney general have the right by law to dismiss the SVP petition that was against me, to only rearrest me again for the same charge without any Due Process of the Law?

Statement of The Case

The court and counsel error when the proceeding was allowed without the Due Process and equal protection of the Laws. See Under U.S.C.A. Const. Amend 6, and 14th amendments. (Sic)

ARGUMENT

Five days before Pro Se defendant were to be scheduled for release October 2015, ~~I was detained and held for~~ Sexually Violent Predator Act and ~~was~~ returned to the Horry County Detention Center and kept without any Due Process Clause to April 13, of 2017. No court, no answer to why it was kept there for (19) months against my will helpless detained against liberty or Justice.

A Prayer for Relief of protection came through a legal form "In The Court Of Common Pleas Fifteenth Judicial Circuit Case No: 2015-CP-26-1841.

Notice Of Voluntary Dismissal Pursuant To S.C.R.C.P. 41 (a)(1). Signed by Assistant Attorney General Christopher A. Morrow. And this was the best Relief I have ever had in this life. This Civil Procedure of my new Sexually Violent Predator charge ~~was~~ dismissed without prejudice against the respondent I, Robbie C. Collins.

Sexually Violent Predator Act ~~petition~~ dismissed to only be ~~detained~~ (6) six months later. On a new procedure action were taken against me once again.

I, Pro Se, were forced into the fact I needed to start defending myself again. Only this time the Attorney General's Office did not give me any time to get my case ready and in-order for now, a new trial.

I was ~~detained~~ from my job on October of, 2017, and October 9, 2017 I was charged and convicted of,

ARGUMENT

of Sexually Violent Predator Act (SVP). Setting in correct care of the most high and very intense prison death-row setting I have ever been to during any of my incarcerations; ever. I am behind five (5) razor wire fences, and a very intensified with great intensity on my emotions. An intensified rec yard with this razor wire fence on four (4) corners. In addition, wire above the rec as well.

My entire life were taken away with no justifiable grounds once nor ever. Taken away from October 4, 2017 to October 9, 2017. Just five (5) days!

I will pass this problem to the courts. I have been the victim of unjust and my Due Process were violated.

First, I did not have time to prepare for my new ~~trial~~ trial.

~~never~~ a bond. Did not have time to attain my own private attorney. I was working full time and were saving funds. Did not have an update psychological evaluation. Were not prepared for un-expected lock-up.

All the legal procedures by law were suppose to be up-dated if the SVP petition was dismissed. I, by law, were to have an up-date Probable Cause hearing. After all- I were set free of charges. Please take note of the following cases concerning this matter...

Cases: Former federal prisoners certified, pursuant to the Adam Walsh Child Protection and Safety Act,

ARGUMENT

as sexually dangerous persons, and being detained pending hearings on Government's petitions for their commitment under statute governing civil commitment of such persons, were deprived of due process and equal protection, requiring dismissal of the petitions; prisoners were not provided with meaningful and adequate notice of the basis for seeking their indefinite commitments. U.S.C.A. Const. Amend. 5; 18 U.S.C.A. § 4248. U.S. v. Broncheau, 759 F. Supp. 2d 682 (E.D. N.C. 2010), vacated and remanded, 2011 WL 2043956 (4th Cir. 2011).

Psychiatric examination recordation: Counsel for State of New York could attend psychiatric examination of sex offender that had been requested by State, and videotape or otherwise record it, on petition by State of New York for civil commitment or supervision of sex offender, since fundamental fairness required that both sides be given full and fair opportunity to prepare for trial. (McKinney's Mental Hygiene Law § 10.06(d, e). (State v. Soto, 20 Misc. 3d 679, 860 N.Y.S.2d 725 (Sup 2008); West's Key Number Digest, Mental Health ¶ 461. Exhibit: A-1

Prayer for Relief: Pro Se defendant suffered prejudice from prosecutorial misconduct in sexually violent predator (SVP) proceedings by prosecutor. Need

ARGUMENT

release from any confinement⁵¹.

Seeking ineffective assistant claim against
Mr. James K. Falk, attorney at Law for allowing
violation statutory right S.C. Code Ann
44-48-10-Thru 170.

Statement of Issue on Appeal

Why did Mr. James K. Falk, allow the Static 99-R error to slide through the courts without knowing the fundamentals of the Static 99-R, if thus, is what he defending against the scheme of the Sexually Violent Predator Act?

Statement of The Case

There are error's in the scoring of Dr. Swan's Static 99-R, under the Static-99 Coding Rules Revised 2003 by Andrew Harris, Amy Phenix, R. Karl Hanson, and David Thornton.

There is a violation under the U.S.C.A. Const. Amend. 6, 14.

ARGUMENT

(Bringing now attention to Static-99R Coding Form completion date: 10.17.2015, with Index Offense: 2004-GS-264013 conducted by Amy C. Swan.

First, notice on number 6 Prior Sentencing dates (excluding Index) (Risk Factors) Now, notice the Data Element 5... the first date of "Item #6 Prior Sentencing Dates" is 1.23.81; and under the (Static-99 Coding Rules Revised 2003) by Andrew Harris, Amy Phenix, R. Karl Hanson, & David Thornton... states under The Basic Rule: If the offender's criminal record indicates four or more separate sentencing dates prior to the Index Offence, the offender is scored a "1" on this item. If the offender's criminal record indicates three or fewer separate sentencing dates prior to the Index Offence, the offender scores a "0" on this item.... See... Exhibits: F, F1-8, Count the number of distinct occasions on which the offender was sentenced for criminal offences. The number of charges/convictions does not matter, only the number of sentencing dates.

Let us go back to the above date Dr. Swan used to grade my Coding Form 1.23.81. Look at the prior charges I had on record. Which states two dates of the same 1.23.81 listed. One date of conviction was for a Prior, Driving Under the Influence First Offense, but the second was for Leaving the Scene of Accident with no conviction dates. It has to be a conviction

ARGUMENT

to score the Static-99R Coding Form correctly, and that could be now (3) or less offences needed for proper scoring. Which is it? That could make me a lower risk to re-offend. I never was arrested for Leaving the Scene of an Accident. No conviction as needed for proper scoring. Notice the Exhibits. Further, under the Item # 6 Prior Sentencing Dates, go to "Do Not Count": it states... The offences must be of a minimum level of seriousness... but the offence must be serious enough to permit a sentence of community supervision or custody/incarceration (as a juvenile or adult). Now, driving while intoxicated is a serious penalties, but not a charge I was never convicted of, a serious charge leaving the scene of an accident. Again, which listed is it?

Between Dr. Swan's date's of 1.23.81, and Mr. Morrow's date's of the same charge's, are not matching as well.

Now, let us go to second number following 9.12.86 is what is on the Static 99-R, but Mr. Morrow has 9.12.96 for the same charge on his "Civil Action Coversheet 2017-CP-26-3015. Where is Dr. Swan's getting her dates?

Or, where Mr. Morrow's getting his dates from concerning my police recorder. Or, Dr. Swan's has typed in dates to fit her Static 99R Coding Form. Maybe.

See... the third date on the Data Element 12.27.02. by Dr. Swan, but Mr. Morrow has on my record December 17, 02

ARGUMENT

for the same "Public Disorderly Conduct. Which is it?

Again, has to be a minimum level of seriousness.

That charge was not serious once nor ever. Also, if compared to Mr. Morrow's dates of my criminal record are wrong in dates, then I could argue it was another charge on my record with the same month and date of the year, but the days are different. Which is it?

Could it be any of the other charges listed on me?

That could change the outcome of the Static scoring.

The last number dates on the Static 99R Coding Form on listed "Data Element by Dr. Swan almost made me nauseous to read the fabricated scoring concerning Dr. Swan needed this forth charge dates to enhance her reading of the score. This charges was Nolle Prossed and were dismissed. This was not suppose to be used, because it had to be a convictions with the date of 9.19.03. By the way, someone must have forgot to informed Mr. Morrow of this charge with no conviction. Now let us go back to the Prior Sentencing Dates (Item #6) Remember the first mention - "The Basic Rule: If the offender's criminal record indicates "four or more" "separate sentencing" dates prior to the Index Offense, the offender is scored a "1" on this item. (Raising my Static 99-R score up) If the offender's criminal

ARGUMENT

record indicates three or fewer separate sentencing dates prior to the Index Offence, the offender scores a "0" on this item. Please continue to note...

Count the number of distinct occasions on which the offender was sentenced for criminal offences. The number of charges/convictions does not matter, only the number of "sentencing dates." (Again, I, ProSe was never convicted of any charges dated on

September 19, 03. Mr. Falk, should have expanded his questioning concerning Item #6 Data Element on those dates.

Again, that date listed 9.19.03 was not to be used. Court appearances that resulted in complete acquittal are not counted, nor are convictions overturned over on appeal.

Take a further look at Items #8 "Risk Factors". states:

Any unrelated victim, and see... Data Element: Elizabeth, Nichole, and Melissa. I was their uncle. I was married to their Aunt for about eight (8) years. They were in the family almost every single day the entire (8) years. Dr. Swan scored my Static 99-R Codes: 1 for not being any relationships.

An unrelated victim, a stranger to me, she stated.

Let's walk through a little... Items #8, #9, & #10 - The Three Victim Questions of the Static 99-R.

First it states... The following three concerns victim characteristics: Unrelated Victims, Stranger Victims, and Male Victims. (Sic)... pp. 18 of the Exhibits: F, F1-8

ARGUMENT

I agree with Static 99-R Item #9 and Item #10.
Visit the following exhibits for scoring. Scoring
the Static 99-R, and Computing the Risk Estimates.

Notice... Appendix Seven Suggested Report Paragraphs
for Communicating Static-99 based Risk Information.

Dr. Swan, evaluated me on (8.6.2015). Two (2) years
has passed before the delayed trial date October 4, 2017.
The entire evaluation could have and should have been
up to date. I changed a lot in those two years, as well
as everyone else does.

On the other hand, the Static 99-R is not reliable.
(Sic) United States of America v. Mark's Revland
4th Cir. of North Carolina 2011 U.S. Dist. Lexis
147944.

(Sic) U.S. v. Perez 752 F3d 398 (4 Cir. 2014) (Although
the District Court Recognized and consider the sta-
tistical rates of recidivism based on the various
actuarial scales; the court explains "[it] affords
them less weight than respondents past and current
conduct and the testimony of the experts.

(Sic) 132 F. Supp. 3d 1085. Belleau v. Wall (U.S.
Dist. Ct.) (T 2015) (-). Risk Assessment- Actuarial Risk
Assessment tools are generally consider more
accurate than the clinical judgement of a
psychologist; the alternative method of predicting

ARGUMENT

future offense, but as one court noted - while actuarial risk assessment are said to outperform clinical risk assessments. Actuarial assessments do not and can not "purport" to make a prediction of a particular offenders future conduct, (Sic). Ohio v. Ellison no. 78256, 2002 Ohio-4024, 2002 WH 1821927^{#2} (Ohio Ct. app. 2002). Indeed, as the same court noted, the "Static 99-R" cannot purport to make an individualized assessment of future conduct anymore than a life expectancy table can provide an accurate prediction of a particular individuals' longevity. The person is obvious, the fact that a certain number of individuals that fit a given profile are likely to recidivate, does not tell us, which individuals will and which will not, because "for each it is a matter of his own choice".

Violated the Legislature's statutory scheme...

State failed to present sufficient evidence that

I, Robbie Carroll Collins, current risk of reoffending.

(Sic) Exhibits: F, F1-8

Prayer for Relief

Mr. Morrow, started mentioning about the Static on
SVP, pp 119, lines 10-25. Also, SVP, pp 120, lines 1-25.

ARGUMENT

See... pp 52 in the following exhibits, concerning Item # 8- Any Unrelated Victims? "The Basic Principle":

Research indicates that offenders who offend only against family members recidivate at a lower rate compared to those who have victims outside of their immediate family.

Having victims outside the immediate family is empirically related to a corresponding increase in risk. I believe Dr. Swan made it out to be Any unrelated victim in the Risk Factor on the Static 99-R. Making me out to be Predator that I know I am not.

Again, see... The Basic Rule: -- on pp. 52 of the exhibits.

Furthermore, on the same pp. 52 and completed on pp. 53 must direct attention to -- People who are seen as related for the purpose of scoring the Static-99 pp. 52 are # 1. Legally married spouses, # 4. Daughter, niece.

The relationships can be full, half, adopted, or common-law (two years living in these family relationships). But Dr. Swan, has # 8 on the Static-99 as not related (unrelated) which brought my Static-99-R Codes to be a (1). On the other hand, it was to be (0). Just a part on Dr. Swan coding the score higher-risk. Notice on pp. 53 "People who are seen as "unrelated" for the purpose of scoring the Static-99. I most certainly do not fit in that category.

Step into Item #9-Any Stranger Victims?

ARGUMENT

Continuing talking over the Static 99-R scoring of percentile rank, and how I sexually assaulting four victims. With no objection from Mr. Falk to challenge Dr. Swan's fabricated scoring of this actuarial assessment used by other experts in her field. (See) SVP, pp. 121. Lines 1-25.

Direction attention to the term used... "sexually assaulting four victims Dr. Swan is painting a fabricated new word that is not on, near, any indictments".

Assaulting means, "a violent attack" upon a person. Working toward the jury to hate me more, and maybe a conviction of a SVP without hearing my weak side directed by Mr. Falk. No objections on his part. Just more added to ineffective assistant of counsel. (See) SVP, pp. 121. Lines 23-24.

More discussion concerning Static 99-R on pp. 122.

Now, Mr. Falk, wants to dance around the wording concerning the Static 99-R. See SVP, pp. 145. Lines 1-25.

Dr. Swan gave a score of (3) on the Static, but on pp. 146. Line 5, she answered I had a score of two. Mr. Falk, did make a good "valid-point" -- scoring this Static-99, doesn't it indicate that if you are five years outside without picking up new sexual offense, that your likelihood to re-offend cuts in half? Dr. Swan states... well, it does. (See) SVP, pp. 154, Lines 14-19.

Statement of Issue on Appeal

Why did the State Attorney, and Dr. Amy C. Swan, have the Hare Psychopathy Check List-Revised test done (conducted) on me?

Why my prior attorney James K. Falk, did not stop proceeding to have independant test done?

Statement of The Case

Again, my civil rights, and U.S. CA. Const. Amend.
6, and 14 violation.

Mr. Falk, was ineffective assistant of counsel
for not demanding the "Daubert Test" to be done
to challenge the fake evidence presented in the
court. My Due Process and equal protection of Laws
were violated again.

The "Daubert Test" should have been done,
that discusses Hare PCL-R issue.

ARGUMENT

Why did the State have the Hare Psychopathy Check List-Revised (PCL-R) test done? Yet, Counsel did not stop proceeding to have independent test done? I, the Pro Se, know the State used the Hare Psychopathy Check List-Revised to contribute to the fabrication lawless sexually violent predator act conviction of me, as set forth.

The PCL-R started with following cases... See... 2011 U.S. Dist. Lexis 83284, *Hall v. Tehrani* 320 F. Supp 2d, 790, U.S. v. Taylor (7 cir. 2011).

Courts can not and should not rely on case, See... U.S. v. King 2013 U.S. Dist. Lexis 54655 (2013) (Line # 96) - does not predict sexual recidivism).

The courts must need this case as well... See... 211 F3d 803. U.S. v. Barnett (1999) (... Research on predicting future "Dangerousness").

By Law the next cases of the "Daubert Test" should have been done, that discusses Hare PCL-R issue. First, "Daubert Test" - *Kumho Tire Co. v. Carmichael* 526 45137, 143 L. Ed 2d 238 (Citing Daubert 509 U.S. at 589, 593-94 597) Second... (See... *Daubert v. Merrell Pharmaceuticals Inc.* See... 509 U.S. 579, 125 L. Ed 2d 469). (Rules of evidence, rule 702). The Daubert Test needed to be done to see if Hare PCL-R was Scientific. Mr. Falk, never challenged

ARGUMENT

the Hare Psychopathy Checklist-Revised to see... why the "Daubert Test" was not done. I will call that ineffectual assistant of counsel. This Daubert Test should have been done to see if it was Scientific evidence.

I, Pro Se, need to know by the courts, why was the Validity of The Hare Psychopathy Checklist-Revised (PCL-R) not done under the "Daubert Analysis?"

I had the right to Civil Due Process of the United States of the Law for a second independent evaluator, approved by law to conduct and execute their own Hare Psychopathy Checklist-Revised on me. Mr. Falk, should have enforced and stopped trial, because the second independent evaluator never did "Hare Test."

Prayer for Relief: Immediate Release, Exhibit: E

The Hare PCL-R Test first mention by Mr Morrow direct to Amy C. Swan, on SVP pp. 100, Lines 18-20. Again Morrow Dr. Swan, I noticed you administered a Hare --- SVP pp. 101, Lines 21-22.

Mr. Falk, did do the right decision upon his first object's to the testimony about the Hare. He had a question the validity of the testing -- See -- SVP pp 101, Lines 23-25... SVP pp 102, Lines 1-2.

ARGUMENT

Mr. Falk, began his questioning about the Hare Test and it seem to be challenging Dr. Swan's portion of the time spent devoted to the Hare examination... See... SVP pp. 102 Lines 15-25. Dr. Swan talks about childhood features, and my entire life and pattern of behavior SVP pp. 102. Lines 21-23...

Mr. Falk and Dr. Swan discuss the Fundamentals concerning the Hare Test back and forth on SVP pp 103. Lines 1-25.

Mr. Falk, asked Swan for data that shows what a score of means? See... SVP pp. 103. Lines 11-12, and on Line 13 Swan said, 'I do. Line 14, can you show that to me. First, she did have the data score, but she don't have the scoring sheet here. SVP pp 103. Lines 16-25 give her personal opinion of the data. Dr. Swan, give her opinion but no data documentations of subject Hare PCL-R Test for the courts record.

Now, on SVP 104. Lines 1-25 Mr. Falk and Dr. Swan discuss the Hare Test. Notice... Mr. Falk had mention that the best practice is for two people to provide the Hare examination, ... See... SVP pp 104. Lines 12-14.

Dr. Swan, turned the table to fit her own study's that it does not require two people to provide the Hare examination, and only needed two for the learning process of the Hare Test. See... SVP pp. 104. Lines 15-25 and continue on SVP pp. 105 Lines 1-6.

Dr. Swan, admitted that it would be excellent way to use the Hare Psychopathy checklist if there were

ARGUMENT

two experts. SVP_{pp} 105. Lines 1-6. Dr. Swan, immediately divert attention back to her claim Knowledge only needs to stand alone before, during, and after the "Hare Test", and whom needs another experts Knowledge to conduct a Hare Test when it only needs her one opinion to convict me of a sexually violent predator for life. Possibility a life sentence based on one simple opinion. Just one opinion. The courts needs to address the "Daubert Test" concerning it needs two experts opinion to be in order.

Discussion continue between Falk and Swan on SVP_{pp} 106-109 concerning the Hare Test and Falk had no more questions for Swan on See... SVP_{pp} 109. Lines 10-11. Falk should have had backing him up that it is a requirement to have two experts to evaluate the "Hare Test".

I needed my own second opinion concerning this Hare PCL-R Test, and it was not done. I had that right.

Now, Dr. Swan is being question Mr. Morrow on Re-direct See SVP_{pp} 109, Lines 16-25. And SVP_{pp} 110. Lines 1-4 Mr. Morrow completed his questioning Dr. Swan.

Mr. Falk Recross Dr. Swan on SVP_{pp} 110. Lines 20-25. And continue to recross Swan SVP_{pp} 111.

Now, Dr. Swan had mention the scoring manual that has check-off points that we check off to score it. See SVP_{pp} 111, Lines 9-10. Mr. Falk, asked question

ARGUMENT

about the score test, and how do we know you're right? See... SV P, pp. 111. Lines 11-12, Dr. Swan's response to question was... most people have training once in their life.

Mr. Falk, began his argument... See... SV P, pp. 112. Lines 9-25, and he continued on page 113 Lines 1-14. Mr. Falk, brought up some excellent clear points concerning differential point scoring of The Hare PCK-R Test. There is a lot of subjectivity to the recertification Dr. Swan has not had update scoring of the Hare Test PCK-R in 15 years. See, SV P, pp. 113. Lines 11-14.

Mr. Morrow, merely talks about how his expert witness qualified and is the underlying science reliable in Dr. Swan's Ultimate opinion on this matter at hand. See... SV P, pp. 113. Lines 16-25. And on SV P, pp. 114, Line 1-17.

Mr. Falk, tries to persuade this facts again the Hare Test has reason to be question, but really did know how to drive the point to the source of the problem. And that there is problems with the validity of the testing. See... SV P, pp. 114. Lines 19-24.

The Court, either side of the defense or State has a chance to err... not the admissibility. Can't be accepted or admitted. How are this possible? See... SV P, pp. 115. Lines 1-6.

The Court, overrule Falk objection. Still there is not a fact of clear and convincing evidence to support this fabricated Hare Test. See... SV P, pp. 115. Line 8.

ARGUMENT

Mr. Morrow, is once again, building a pedestal to higher heights holding the Hare Psychopathy Checklist - Revised to assist as a fabricated tool of whom the jury has no clear understanding of what this test is all about. Painting an evil picture of me that is not a fact, and I could prove this back in court. See... SVP pp 116. Lines 1-25, and Dr. Swan said; I scored on this instrument a 25. See... SVP pp 117. Lines 19-20. I can prove this Hare PCL-R score of 25 is not up to par. Miscarriage of justice all the way through. The Hare PCL-R; is not correct in Swan's calculation.

Getting back to the Hare PCL-R test Mr. Falk asked Dr. Swan on cross See... SVP pp 131. Lines 4-5. More question to Dr. Swan by Mr. Falk on SVP pp 132. Lines 1-25.

Mr. Falk, brought to light that Swan only used the Hare Test on me, Mr. Collins, but none of her other evaluations. See... SVP pp 133. Lines 17-19. If the Hare test was part of the State's and Ms. Dr. Swan's scheme to keep me locked up, and because the victim was (95) years of age. Moreover, she was the best friends with the Mayor of Loris, and as the old saying goes... "when you offend one hand you offended them all." I for a fact believe this is the stem of I being convicted of a Sexually Violate Predator in the scheme of fact fabrication. Dr. Swan, need not point at my criminal record, because

ARGUMENT

It would seem to build her Hare Test to a point of belief if one did not fully understand the meaning.

Mr. Falk, continued to cross Dr. Swan about the assessment... justified by my criminal record... see SVP pp. 134. Lines 10-12. And it may favor an opinion of commitment, SVP pp. 134. Lines 22-25. Following questions on SVP pp. 135. Lines 12-25.

It is obvious Dr. Swan induced the scoring of the Hare Test to misdirect the jury to smoothly digest believing a false misguided; an error of belief that is not a fact. And a weight on the side to assist her in her fake diagnosis. Concerning the results of the Hare Test.

Again, Mr. Falk, is trying to show Dr. Swan only put the Hare scores down on the test when she thinks they are going to commit, or recommend commitment. See... SVP pp. 136. Lines 11-14.

Mr. Falk, talked about Dr. Swan's coding rules SVP pp. 137. Lines 15-16. And the Hare Test question had stopped on SVP pp. 137. Line 15-16.

Now, I would like direct attention to the "Hare PCL-R: 2nd Edition Scoring grid by: Robert D. Hare, Ph.D.). Notice on the following Exhibit Scoring Grid is not calculated correctly. Thus, would and has made the Hare Test PCL-R that were conducted on me completely wrong, and the outcome would have been different.

On the Scoring Grid notice on number (11) the (2) is

ARGUMENT

circled in the yes column? Now, move straight to the right in the inside Grid. There is not the number (2) listed on column number (11) nowhere, but Dr. Swan placed that same missing (2) Grid on her; or the Total Score column. Which is it? Is it (the score) really (25-total)?

Where does this missing (2) needs to appear?

Should we just place it in bottom totals of Facet 1, Facet 2, Facet 3, Facet 4, Factor 1, Factor 2? Which does this missing (2) two equal? Maybe the true score is (23). Whom Knows. This Hare Test was conducted (2) two years prior before I appeared in court. That in itself is miscarriage of justice; in itself.

All Facts... this would have surely Failed under the Daubert Test - Kumho Tire Co. v. Carmichael 526 U.S. 137, 143 L. Ed 2d 238 (Citing Daubert 509 U.S. at 589, 593-94 597) and see... (Daubert v. Merrell Pharmaceuticals Inc. See... 509 U.S. 579, 125 L. Ed 2d 469).

I wrote that down again, to stress a strong point error, concerning the Total Hare PCL-R Test and Grid.

(Sic) Exhibits: E

Statement of Issue on Appeal

Is it not a false diagnostic of the DSM-V
that was used against me, if rape is consider to
not be a mental disorder?

Statement of The Case

It is a violation under U.S.C.A. Const. Amend 6, and 14th Amendment against Mr. James K. Falk for not challenging the Diagnostic Statistical Manual Five like he should have known how, too. As well as the violation against my Civil Due Process and equal protection of the Laws.

ARGUMENT

The Diagnostic and Statistical Manual Five were misused the grounds of rape. Rape is a crime, not mental disorder. An improper use of psychiatric diagnosis and promotes the abuse of psychiatric commitment to further what would otherwise be an unconstitutional form of preventive detention. These fake diagnoses have no place in courtroom proceedings. Furthermore, Paraphilia NOS is misdiagnosed and misused. The SVP evaluator Dr. Swan, is simply wrong and misleading to jury and judge - resulting in SVP decisions that are (is) arbitrary and questionably constitutional.

It is a fact of miscarriage justice on the weight on Assistant Attorney General Mr. Morrow, as well as it is on the appellate defender Mr. James K. Falk. A fact of ~~ineffective~~ assistant of counsel against Falk for not challenging the DSM-V diagnoses.

See...⁽¹⁾ U.S. v. Perez 752 F.3d 398 (4 Cir. 2014) Although the District Court Recognized and considered the statistical rates of recidivism based on the various actuarial scales; the court explains [it] affords them less weight than respondents past and current conduct and the testimony of the experts.

⁽²⁾ 132 F. Supp. 3d 1085. *Belleau v. Wall* (U.S. Dist. Ct. (T 2015) (-). Risk Assessment - Actuarial Risk Assessment tools are generally considered more accurate than

ARGUMENT

the clinical judgement of a psychologist; the alternative method of predicting future offense, but as one court noted—while actuarial risk assessment are said to outperform clinical risk assessments. Actuarial assessment do not and can not purport to make a prediction of a particular offenders future conduct. Ohio v. Ellison no. 78256, 2002 Ohio- 4024, 2002 WL 1821927 #2 (Ohio Ct. app. 2002).

Indeed, as the same court noted, the Static 99-R cannot purport to make an individualized assessment of future conduct anymore than a life expectancy table can provide an accurate prediction of a particular individuals' longevity. The person is obvious, "the fact that a certain number of individuals that fit a given profile are likely to reoffend, does not tell us, which individuals will and which will not, because," "for each it is a matter of his own choice". Please take note... (Sic) Exhibits D, D-1-10,

"Prayer for Relief"

The responses to the first misleading diagnoses were with the questions Mr. Morrow began to ask Dr. Swan's on SVPP, pp. 96, Lines 4-8.

ARGUMENT

Dr. Swan, began the fabrications of her DSM-V on SVP_{app.} 96. Lines 9-25, and pick it up on SVP_{app.} 97. Lines 1-25. See SVP_{app.} 98-100.

Mr. Falk, did not objected, nor challenged any of Dr. Swan's DSM-V diagnosis on any of the above mention pages. Furthermore, Mr. Falk, only made mention DSM-V on SVP_{app.} 174, Line 1.

Statement of Issue on Appeal

Does the SVP Laws allow the S.C. Attorney General to rearrest for the second time without any Due Process under S.C. Code of Laws Ann §§ 44-48-10 Thru 170?

Statement of The Case

The court and counsel erred when the proceeding was allowed without the Due Process and equal protection of the Laws under S.C.

Code of Law. Ann §§ 44-48-10 Thru 170

Also, violation under Const. Amend. 6, 14.

Ineffective assistant of counsel, and Due Process and equal protection of the Laws.

ARGUMENT

I completed my prison sentence October of 2015. After a (14) year sentence, I were held against my will at Horry County Detention Center for (19) months without any Due Process of any Law.

On April of 2017 prior attorney Falk, informed me that the attorney general were going to release me on the following Monday, and he thought that he'll let me know, so I would not have to be worry about going to court during that week in. I thought that was real nice of him to do that, but nothing were done the entire (19) months of my life wasted away for nothing. I thought I were being punished more because the victim were best friends with the Mayor of Loris, S.C., but I know longer think that way.

After I were released, I caught a bus to Spartanburg, S.C. to live at Jumpstart Ministry. This is a great beginning for me. They helped me get my birth certificate, social security card, medical insurance, a clear driver's license for the first time in (30) years or less, and I attended sex offender treatment program with a license Doctor. I had great accountability partners, we would get write-ups, if we did not follow the rules of Jumpstart. I live in approved housing with other ex-sex offenders. I had

ARGUMENT

a great job with "Custom Forest," that gave me a dollar and a half raise within a month.

Selective Service approved for I to achieve a two years of schooling. I thought, and were getting ready to achieve my CDL. Looking at my life were getting better. My present job was going to hire me to drive their trucks local, at a larger raise. I achieved more certificates at Spartanburg, S.C. Works, Ms. Rose Cortes, was helping me.

I reported to the local Sheriff's Department, and attended church every Sunday. Seeing my life better in a different way like none ever before.

I now, at present still have my job, and a place to live. Live at Jumpstart Ministry. I know I would never offend anyone ever again. I understand why I did what I have done. I know how to stay focus. I have my Five Year Relapse Plan to help me along my life's journey.

My whole world was taken away from me again, but that will not stop me. The Attorney General took away my life again, and I had to answer and be tried again from the people.

Is it not true, that I were to have another Probable Cause Hearing? Was not I had the right of Due Process of the Law?

ARGUMENT

After, I were ~~detained~~ for the Sexually Violent Predator Act in October 1, 2017 had the fair right by law for another psychological evaluation, and my own independant evaluation? Did I have the right for a bond-set? Did I not have the right for a new attorney? After the new petition filed against me. Did I not have the right by Due Process of the Law to hire my own attorney. Did I have right for opportunity to hire my own independant Psychiatrist? I did not have any warning my life was going to be taken away from me; twinkling of the eye.

October 4, 2017 tried with ineffective assistant of counsel, and convicted of Sexually Violent Predator. October 9, 2017, I now set at Correct Care pleading for the Courts help.

As I have mention, I absolutely have a place to live and a job after my release from here. Jumpstart Ministry will see me through my success as a productive member of society; our society. I will attend the same sex offender treatment yprogram, with the same license Doctor. I attend schooling. Selective Service has already paid in full. Register with local Sheriff Department.

(Sic) Exhibits: C-1-3, C-5 Prayer for Relief

ARGUMENT

Again, I, Pro Se, completed my prison sentence October of 2015, but ~~detained~~ (5) days before my completion. Brought back to J. Reuben Long Detention for (19) months without any "Due Process". And was charged with Sexually violent predator. After the mention (19) months, I was released to be set free out of my own. My attorney James K. Falk had the jail to allow me to call him. Mr. Falk said; my SVP charge was dismissed without prejudice against me.

After my release I was doing very well for myself. And I was very focus on my positive future.

I would like to mention I had a clear disciplinary record during the years (2003 - 2017). Participated in (100)'s of hours in drug and alcohol classes and multiple meaning programs while in prison. I am truly a better human as oppose of my initial incarceration. I attended sex-offenders-treatment after my evaluation with Amy C. Swann.

Furthermore; after my release I faithful participated in a sex-offenders-treatment-program with a Doctor Paul S. Gunter from Greer, South Carolina. And I will once again attend his program upon my release as my first step. I earned my driver's license for the first time in years, and my license has no restrictions.

ARGUMENT

At present, I am approved to higher my education, it is paid in full by the "Selective Service". It is a approved two year school course. I will achieve my Commercial Driver's License to continually employment with my same employer prior my arrest again for the same sexually violent predator. I would rest this Pro Se Brief if I even thought for one second that I was a Sexually violent predator.

Sex offender, who was not in legal custody when initial steps were taken to initiate civil commitment proceedings against him pursuant to the Involuntary Civil Commitment of Sexually Violent Predators Act, was entitled to immediate release from any custody or commitment imposed as a result of the proceedings. (West's F.S.A. § 394.910 et seq. *Larimore v. State*, 2 So. 3d 101).

Offender's civil commitment under the Adam Walsh Act as sexually dangerous person was not justified; although offender had prior conviction for statutory rape in 1976 when he was 19 years old, was convicted of rape in 1982, and pled guilty to indecent assault of female in 1991, and he was diagnosed with Antisocial Personality Disorder, offender had long history of drug abuse and prior offenses occurred while he was under the influence of drugs, offender's drug abuse was now remission due to his incarceration,

ARGUMENT

he successfully completed sex offender treatment program in prison, no expert had diagnosed him as having abnormal sexual urges, such as pedophilia, or hypersexuality, evidence showed that his Antisocial Personality Disorder had become less serious during his 18 years of incarceration, as demonstrated by offender's excellent disciplinary record and participation in multiple programs while in prison, there was no evidence that offender's Disorder caused him to have serious difficulty in controlling his behavior, and conditions of offender's supervised release included drugs and sex offenders treatment. (18 U.S.C. A §§4247(a)(6), 4248(d). U.S. v. Wilkinson, 646 F. Supp. 2d 194 (D. Mass. 2009)). See... (Sic) Exhibits: C, C-1, C-2, C-3, C-5

Prayer for Relief: I need the courts to know I only had a minor disciplinary action taken against me on 05.28.1987. And that was abuse of privileges. Back at Walden Correction inmates had the privilege to sit in the day room to watch T.V., play games, or just sit until (11:30 pm) before we were to be back in our cube-rooms. It was a ~~ten~~ minutes late getting back to my cube. So, (20) days were taken against me. I have an outstanding record for many, many years. I have less against me, as oppose of (U.S. v. Wilkinson) had against.

Statement of Issue on Appeal

Why no one was aware I attended additional six months of sex-offenders-treatment program after I was released April of 2017 until October of 2017?

Statement of The Case

For Fact, I have had at the less, one year of sexual offender treatment after Dr. Swan, conducted her 2015 evaluation upon and against me.

Six months of treatment in prison, and six months when I were released from confinement in 2017.

Again, violation against my civil rights, and the U.S.C.A. Const. Amend 6, 14.

The Attorney General knew I was going to sexual offender treatment program, because Mr. Morrow, knew I had community supervision, and that was part of the requirements that I go.

Mr. Falk, knew I went to treatment in 2017 as well. I called him at the less once a week to inform him of how well I were doing, but yet, know one brought up the fact. In fact, they said; I did not attend any more treatments. Only the ones in prison. And I will attend SOT Program upon my release from Correct Care. (Sic) Exhibits: C, C-1-3, C-5

ARGUMENT

After Dr. Swan's evaluation on me. I had six months of treatment in SCDC, and six months of treatment when I was release April of 2017 until October of 2017. I changed alot since Dr. Swan, had her evaluation conducted upon me of year 2015.

Dr. Swan, has agreed that it is necessary to look whether an individual has had sex offender treatment while in prison, and it should be after my release from prison. As I had sex offender treatment after her evaluation two years after her first and only evaluation.

Dr. Swan, has added that sex offender treatment is the "primary-pathway" that they use to help individuals learn to control those impulses.

The point at hand is... I had a year of sex offenders treatment after Dr. Swan's (2015) evaluation. So, therefore, how can her evaluation be up to par, if she never recognize the "pure fact" I have had six months of treatment in prison after her (2015) evaluation, and six months of treatment after my release from (19) months of un-fair Due Process of the lay awaiting the SVP trial. Very unfair to the Courts, jury, and myself as to not mentioning that I have had additional one year of treatment after Dr. Swan's evaluation,

ARGUMENT

that was conducted on me. It was mention the six months I had in prison, but not the six months of sex offender's treatment program after I were released into society by a license Doctor that over seen this sex offenders treatment program.

There has been a absolute 180 degree change in me after Dr. Swan's evaluation. (Sic) Exhibits: C, C-1-54

Prayer for Relief

Now, direct your attention to the following proof of fact, please. Mr. Morrow, asked Dr. Swan as part of her evaluation and evaluation into a pre-commitment evaluation, is it necessary to look whether an individual has had sex offender treatment while he was in prison. See... SVP, pp. 93, Lines 19-22. And Line 23, Dr. Swan agree, yes.

Dr. Swan, stated treatment teach them strategies to control those sexual urges. See... SVP, pp. 94. Lines 1-6, and Sex offenders treatment is the primary pathway that we use to help individuals learn to control.... (Sic) SVP, pp. 94. Lines 7-9. Dr. Swan, admitted I had treatment in SCDC. And this was after her (2015) evaluation. (Sic) SVP, pp. 94. Lines 16-18. I never had treatment in 1998
See. 43

ARGUMENT

See... SVP pp. 127, Lines 24, 25,

Dr. Swan, admitted that treatment is done by other experts when asked on Direct by Mr. Morrow.

See... SVP pp. 94, Lines 19-25, and she brought to light that it was part the assessment. But how could she give a true fact opinion before that one year sex offender's treatment after her evaluation she had fabricated upon my life. She said; we can determine based on the research whether someone has learned enough in sex offenders treatment.

Dr. Swan, stated sex offender treatment in SC DC typically lasts about six months. Mr. Morrow said; you relied upon that information as part of the basis of your opinions? See... SVP pp. 95, Lines 1-6.

Swan, had mention six months of treatment can not be enough of treatment and not re-offend, but she never mention through nowhere at the SVP trial I had six more months of treatment by a Doctor just like she is in her field. See... SVP pp. 95, Lines 6-14. Dr. Swan, is discredit that any kind of treatment helps, only the Sexually Violent Predator Act Programs is the only way to get better and to not re-offend. (Sic) SVP pp. 96 Lines 1-3. But tells a story that sex offender treatment is the primary pathway that "we" use to help individuals learn to control... SVP pp. 94, Lines 7-9.

ARGUMENT

Mr. Morrow had asked Dr. Swan if sex offender treatment that an inmate would have while in prison something done by other experts in her field? It is, she said. SVPPp. 94. Lines 19-22.

Dr. Swan, admitted she never received any information from Ms. Sylvia Roberts concerning how well I did in her class; her sex offender treatment program I attended with her. So how can Dr. Swan really do a fair and complete evaluation on me the, Pro Sec if she never received any information of my progress in treatment. See... SVPPp. 128. Lines 1-15. It's a two-year old opinion, it's not a current opinion.

I would like to bring back to the attention that Mr. Morrow had made concerning... there has been nothing intervening in the previous two years that would have changed Mr. Collins', no therapy or anything that he's received, no-- nothing of that nature, and Dr. Swan's opinion remains valid. See... SVPPp. 183. Lines 1-7. How can both Dr. Swan and Mr. Morrow state's nothing would have could have change in my therapy or anything if the fact was not mention. That would be ineffective assistant of counsel on Mr. Falk's part for not mentioning I had additionally treatment? How? The jury was absolutely, positively for fact mislead.

ARGUMENT

Mr. Morrow, stated; there (I "think" there exists evidence that he does suffer from a mental abnormality or personal disorder in the record. (Sic) SVP pp. 186. Lines 18-20. How can he think and not have any factual evidence; without having any proof of this at hand? No, updated evaluation up dated.

Again, Dr. Swan, made allegation as to the fact that I had no; or I failed to get treatment in the community; when I did have treatment in the community. (Sic) SVP pp. 123. Lines 23-25.

On the Redirect Examination, Mr. Morrow, address Dr. Swan, in "fact," that was at the end of his SCPC treatment? SVP pp. 179. Lines 23-24. Dr. Swan's, answer; That is correct. SVP pp. 179. Line 25, and following... next page... and she evaluated me after that treatment, (Sic) pp. 180. Line 1-3, Dr. Swan never evaluated me after my sex offender's treatment at SCPC. This is not a fact, and it is a part of her fabricated scheme. The date of Dr. Swan's four hour evaluation on me was the date of... August 6, 2015 See... Exhibit: C-4. I completed SCPC sex offender treatment program October of 2015, and then I completed the community sex offender treatment program when I was detained on my job October 4, 2017. What would the jury believe if they knew the facts? (True)

Statement of Issue on Appeal

Mr. Morrow, added fire to the flame.

Why did he made a false report concerning
my S.C.D.C. disciplinary offense?

Statement of The Case

Mr. Morrow, made a false discipline report on SVP trans. and on his General Notes when he had on I had a major discipline reports while incarcerated. He was and is not correct. The exhibits show that the SCDC inmate offense history states: One minor discipline action ever taken against me in 1986-1990, and 2003-2015.

ARGUMENT

Mr. Morrow, was also trying to make fact that I had a "major discipline" report while I was incarcerated as part of his "General Notes", and addressed it to the jury as such.

I only had one discipline in (1986) the entire four years after the above mention year.

I never had any disciplinary action taken against me my entire time of incarceration since (2004-2018). (Sic) Exhibits: G, G-1,

Statement of Issue on Appeal

Did the court error by allowing Dr. Swan's testimony as harmless error? When there were not any evidence to prove nor, support of her accusing me of sexually abused four children.

Statement of The Case

The court and counsel error when the proceeding was allowed without the Due Process and equal protection of the Laws under S. C. Code of Laws, Ann §§ 44-48 10 Thru 170.

I claim (6) Amendment violation under the U.S. C. A. Const. Amend (6), against Mr. Falk for Ineffective Assistant of Counsel.

And I claim under U.S. C. A. Const. Amend. 14, Violation against my Const. Amend. 14 in Due Process and equal protection of The Laws.

ARGUMENT

In this SVP case, Dr. Amy C. Swan, a forensic psychologist was the Attorney General's only witness. She for a fact mislead the jury in deception into believing I, the Pro Se, sexually abused four children over a period of three year. By Law there is not a substantial evidence supports a finding that I repeatedly on a recurrent period of at least 6 months sexually abused any children for intense sexual arousing fantasies, sexual urges or behaviors involving sexual activity with a prepubescent child" for a period of at least six months. See... (American Psychiatric Assn. Diagnostic and Stastical Manual of Mental Disorders) (4th ed. 1994) See... People v. Dodd 133 Cal. App. 4th 1564, B178643. There was insufficient documentation to support a diagnosis of Pedophilic Disorder. Nor, Pedophilia if ever that be the case. In addition, the trial court found no other factual basis to conclude that Dodd had recurrent sexual fantasies or behavior directed-directed at young children. See... (People v. Wells 2004) 118 Cal. App. 4th 179, 186 [12 Cal. Rpt. 3d 762] [a trial court's admission of expert testimony is reviewed abuse of discretion].) We agree. Even if other Page 1569....) See... People v. Martin (2005) 127 Cal. App. 4th 970, 975 [26 Cal. Rptr. 3d 174].) Furthermore, an expert opinion cannot

ARGUMENT

reasonably be based on nonspecific and conclusory hearsay that does not set forth any factual details of an act necessary for the opinion. (See, In re Jose T. (1991) 230 Cal. App. 3d 1455, 1462 [282 Cal. Rptr. 75]; In re Nathaniel C. (1991) 288 Cal. App 3d 990, 1003 [299 Cal. Rptr. 236]).

There is no evidence of recurrent behavior, "persisting" for 6 months under any "Due Process of the Law". Moreover, I believe it is the Gate Keeper of the court to determine that Dr. Swan, should have shown forensic proof of any statements from any Doctors that could have proven that I everyday abused any children for 6 months or more. Dr. Swan, said; I abused for 3 years. Where is the proof? Evidence?

The weight were more prejudicial and a lot less weight on the probative side. Prior attorney James K. Falk, should have objected, and it surely was ineffective assistant of counsel on his part.

(S)

Prayer for Relief

Dr. Swan, said; that I sexually abused four children over a period of three years. When evidence shows was in October of 1986 and in

December of 2003. Not continually for (3) years period, and each offenses only happened one night each, not repeatedly for (6) months by P.S.M. V. See... SVP pp. 97. Lines 12-20.

There is no evidence to support Dr. Swan's allegations.

Statement of Issue on Appeal

Why did the courts allow for anything to be said without any tangible evidence to be seen in the court SVP trial? Presented as Exhibits,

Statement of The Case

All Kinds of fabricated allegations, unseen documentations that were not exhibit into the SVP trial. Dr. Swan, lied under oath when she told the courts that I had four DUI's convictions. When it is for fact only two DUI's years apart. A lot of Buzz — words to persuade the jury to lean more on the State's side. Mr. Falk, did not defend me at all during this section.

I claim a violation under the U.S.C.A. Const. Amend of my 6, and 14th amendment rights. And — Due Process and equal protection of the Laws, were twisted out of content of justice.

Mr. Falk, told me to be quiet. I were not allow to talk with him during SVP trial.

ARGUMENT

Bringing to court's attention the facts about the used charged words, false statements made, unfactual allegations, a lot of unseen and no tangible evidence, no presented documentations, that was mention, no forensic evidence to present to the courts that I sexual abused any children by my hands, a lot of fake diagnosis shot-points aimed to, and to demented my character demeanor. That fail upon the jury to believe it all to be facts.

A lot of Buzz words, I have notice to bring to your attention the facts at what was said on the SVP trial as unreal, and not facts.

Exhibits: B, B1-7; C, C1-5; G, G1-3 (Sic)

Prayer for Relief

Mr. Morrow, made the first undocumented statement throughout the entire SVP trial to the Honorable Judge Brian Gibbons, when he said; I mean, the "victim impact statements". Plural, not singular. Where is these statements that was not seen nor, held in hand at trial court? Would not that be just hearsay? Mr. Falk, would not mention all the letters he received on behalf, because he said; they all are just hearsay. Take note SVP pp14. Lines

ARGUMENT

22-25. This should have been in their exhibits.

Mr. Falk, addressed the jury that I had committed sexually violent crimes. Now, the jury see that I committed two are more sexually violent crimes. I only have the one and only one CSC in the second in the year of 2003. (Sic) SVP pp. 60. Lines 10-14.

I believe part of the jury would and have shown some type of prejudice toward my prior charge of what Dr. Swan, allegedly diagnose I of having. Example: attraction to children. See... SVP pp. 65. Lines 8-18. Anywhere during the time the jury were about ready to be picked for this SVP trial, I informed Mr. Falk, of whom I thought would not be a good candidate for this SVP trial. He told me to be quiet, because I was scaring the jury. Not Fair to me, and "misrepresentation".

On Direct questioning to Dr. Swan, by Mr. Morrow, And, in fact, you found he had been convicted of two sexually violent offenses; Correct? I did; Dr. Swain had answered. (Sic) SVP pp. 79. Lines 1-3. Never, in my entire life I committed two sexually violent offenses, and the records state that. See... Exhibits: B, B-1-7

Dr. Swan, went further to drill this in the jury's mind. See... SVP pp 79. Lines 10-17

ARGUMENT

Mr. Morrow painted a picture of the following examples and circumstances. Concerning about the lewd acts on children under the age 14. See... SVP pp. 81. Lines 20-22. The indictments he presented states "Lewd Act," not "Lewd Acts".

Now, following the misleading of jury, into believing in a fabricated hearsay without any "forensic proof" that I performed oral sex on these four (no evidence) children, and there was an indication that there was attempted penetration that fell short of penetration of these four children. Of whom now are adults. See... SVP pp. 83. Lines 1-5. Dr. Swan, and Mr. Morrow, absolutely, blankly lead the jury into deceit under oath without any "forensic facts" on SVP trial dockets, NOT presented on any of their indictments. Mr. Falk, should have and could have objected. That would be again, ineffective assistant of counsel.

Furthermore, Dr. Swan, is making the jury to believe an out right lie, and she did this under oath of "Court Law". Must See... SVP pp. 85. Lines 4-19. And she said, that I had in fact penetrated the girls, and I denied that I beat them, as well as beaten the two year old when she was one. Dr. Swan, found that my statement did not match

ARGUMENT

the reports that I reviewed by the police. See... SVP pp. 85. Lines 17-19. Where in the world is this above mention facts to her fabricated story. There are no documentation any where that has the forensic, prevalence facts to this, out right lie. Where is the "Forensic Facts" to Dr. Swan's, Hideous, EVIL, ALLEGATION?

I never told Dr. Swan, that I have developed an anger toward women... See... SVP pp. 89. Lines 20-21.

Never for fact told Swan... she should have kept her stuff to herself. SVP pp. 90. Lines 3-4. Never told her... that it didn't have anything to do with the fact that I raped her. See... SVP pp. 90. Lines 8-9. Never told Dr. Swan, ... I was like a honeymooner her... SVP pp. 90.

Lines 10-11. Again, for fact, never told Dr. Swan, ... she should have kept her stuff to herself. See... SVP

pp. 91. Lines 8-9. Step up a few lines that Dr. Swan made statement... she had to weigh what I said about what the "official records saw." I did not know the records saw anything. SVP pp. 91. Lines 2-3.

Never did I tell her... if she was traumatized by this, he said that she looked over 100, and I did not damage her. See... SVP pp. 91. Lines 12-15. Never for fact said to Dr. Swan, that any of my treatments did not help me. See... SVP pp. 94. Lines 13-15.

604) Dr. Swan's Allegations

ARGUMENT

I never had (4) Driving under the influence on my police conviction records. Nor, is there any proof of four DUI's on SVP trial records. I only had two (2) DUI's on record. Dated from the first DUI (9.12.86), and second (1.23.81). Years apart, and only two. But Dr. Swan had added to her diagnosis, and to paint that picture to the jury that I am nothing but a drunk. See... Exhibits: G-2, G-3,

Mr. Morrow, asked Dr. Swan, if Mr. Collins (I) have any sex offender treatment after my release... Dr. Swan, said: Not to my knowledge. Well - I will have sex offender's treatment immediately after my release from this SVP program. Plus, I was in a sex offender's treatment program with a License Doctor when the Attorney General released me April of 2017 until they ~~detained~~ me again October of 2017, and now I'm here. See... SVP pp. 126. Lines 11-14. (Sic) Exhibits: C, C1-5, & A-1

Dr. Swan, did admitted to the mere fact there were no forensic examination done, when asked by Mr. Falk, on cross. See- SVP pp. 148. Lines 21-24. No evidence to support all allegations.

Must take note that Dr. Swan created a re-offense against children. Not that I offended, but reoffended. Not fact, jury only see that I reoffended against children. See... SVP pp. Lines 8-10.

ARGUMENT

Mr. Falk, did bring up a valid-point to the fact that no one really knew if Dr. Swan, was accurate or not in her opinion if I were a sexually violent predator, and she agreed to the fact. See... SVP pp. 160. Lines 19-25 and completion on pp. 161. Lines 1-10. Again, Dr. Swan, agree to the fact there is really no check how accurate she is. See... SVP pp. 162. Lines 1-4.

Dr. Swan, agreed this SVP trial took longer than normal. See... SVP pp. 180. Lines 22-24.

How can Dr. Swan's opinion remains valid? I had therapy sexually offender treatment after her evaluation. For fact I had a year's treatment after her evaluation. See... SVP pp. 183. Lines 1-7. Exhibits: C, C-1-3&5

Prayer for Relief

Statement of Issue on Appeal

Why are the indictments, documentation,
scrabble, counterfeit, catastrophe?

Just why are the indictments and documentation
are in order by true Law?

Statement of The Case

Indictments were changed from non-violent to first degree, to second degree without a trial judge approval. Not being a signed, dated, sealed, stamped as a True Bill Indictment. Un-Justified by law.

ARGUMENT

Under the sound advise of what I thought coming from my prior attorney Mr. James K. Falk, informed me to admit that I did what I were accused of, and the courts would lean more in my favor. Thus, maybe two years ago he said this.

I am very sorry to say that I have absolutely regretted the duressed plea agreement I thought that I have had accepted in the year of 1986.

The plea I agreed to was, "Attempted Lewd Act Upon a Child under the age of fourteen". I most certainly for a fact, did not agree to the Indictment Mr. Christopher A. Morrow. Indictment number 86-GS-32-2145; he had mention.

Mr. Donald V. Myers, Solicitor were handling the plea back in 1986 to one count I plead, too. Maybe he rearranged the indictments to suit his case against me. Those four children did not say I touched them in anyway. The charges was going to be dismissed, until that duress plea to one account, on a child. No 4 four children. Hopefully, one day I will be able to carry this 1986 case back to court.

Moreover, I very much need your expertise in the following points under dispute's. Take a look at the exhibits. (Sic)... SCDC Offender Management System Commitment Application Conviction Summary. Notice number 500001 Lewd Act/Child under, ten years, on

ARGUMENT

(12.09.86) and sentence started on (09.14.1986).

A "non-violent offense", but yet Mr. Morrow, listed it as a violent crime. Again, see... Classing Summary Reports- Report View, it also states: Lewd Act / child Under 14, not listed as children. And down on that list under Open Arrest Notification it has... Lewd Act / child Under 14. Nowhere is it listed children. Could it have been alter indictment number 86-GS-32-2145? I, furthermore; notice there are only three warrants numbers, and not four. Why was this indictment waived? The Foreman of the Grand Jury did not witness, nor agreed with a signature of approval. Nor, does it have a stamped of a "True Bill".

I would like to present a documentation concerning indictment # 86-GS-32-2145. It comes from a print out General Sessions Case History For Case B551750. This was Filed Date 2.07.1994 on the above mention indictment number. This fabricated Charge 0159 (B551750) states: I were charged with Criminal Sexual Conduct With Minors- 1st Degree. Disp. Date (12.09.1986) and sentence to 10 yrs.

Now, I have completed a (10) year sentence, but for fact not CSC in the first degree. Is, are was someone trying to build a fabricated in chance charge of a violent crime? So, the State would have

ARGUMENT

their two most violent charges. Is it a part of the scheme to Commit me to this Sexually Violent Predator Act? Against my will.

Now, to add to indictment number (86-GS-32-2145). This case history for case (B551751) is for one of the other indictments, but place of the # above charged. It also states Criminal Sexual Conduct With Minors - 1st Degree, but Disposition Nolle Prosequi. Dated on (12.09.1986) as well.

Here is another case history for case (B599003) again, for Criminal Sexual Conduct with Minors - 1st Degree has been Nolle Prosequi as well, but this number is not on indictment number (86-GS-32-2145). (Dated 12.09.1986).

Here is another number that is not on the indictment at (86-GS-32-2145) and the number is (1986GS3201858). But this, too has Criminal Sexual Conduct with Minors - 1st Degree. Dated 12.09.1986.

I plead to indictment number (86-GS-32-1858) Committing or Attempting to Commit a Lewd Act upon a "Child" under fourteen, but it has on General Sessions Case History For Case (1986GS-3201858) Criminal Sexual Conduct with Minors - 1st Degree. All was Filed Date (12.13.1994).

ARGUMENT

Eight years later those indictments (4) changed to most violent, and I never had a violent conviction.

Whom overruled the Judge that sentence me in (1986) to a non-violent charge? When I was doing my time at Walden Corrections, I went on shopping trips at the mall without an officer watching me. They could be at one side of the mall, and I on the other side. I had conjugal visit's with my wife, and father two girls at Walden.

Getting back to indictment (86-GS-32-2145). This indictment has three warrent numbers. Warrent numbers (B551750), (B551751), and (B551752).

On the other hand, I am charged with four counts Committing or Attempting To Commit A Lewd Act Upon Children Under Fourteen. What is wrong with this picture? I never had a violent conviction against me. The FBI number (358916W8), and SID number (SC00294249) will confirme these facts. That is until (2003) CSC in the 2nd.

There were no True Copy Seal on any of those four indictment numbers mention above, and the indictment number (86-GS-32-2145) did not have a "True Bill" approval stamp nor dated. How can this be a True Indictment?

I would like to bring attention to Mr. Morrow,

ARGUMENT

persuading the jury into false belief that I have had five different Criminal Sexual Conduct in the 2nd degree. When he addresses the jury of my record.

See... I am sending some information that has been taking out from his Civil Action Coversheet (2017-CP-26-3015)(Slc) Exhibits: B, B-1-10.

Also, see in exhibits the "Sexual Predator Referral Form" states Lewd Act on Child Under 14. (Not children)

Prayer For Relief

Directing attention Mr. Morrow, statements to Kick off what their expert witness needed to assist in my fabricated SVP conviction. He said; an expert relied on the prior offenses when evaluating the sex offender's... and my ability to control my behavior in the future.

See... SVP pp. 11, Lines 12-15. He informed Honorable Gibbons, that I had Lewd act, of one of the sexually violent convictions. And also convicted of CSC 2nd degree. See...

SVP pp. 12, Lines 1-5. The two violent charges he needed to get the "fire-ball-rolling" to my crash conviction of the SVP conviction. How can he "over ruled" what the (1986) Judge sentence me to a "non-violent" One child Attempted Lewd Act? This would be an absolutely "double-jeopardy" retried conviction of a

ARGUMENT

new trial without ever attending that trial, and it would be falsely justified with an invisible make believe Judge. The "True Gate Keeper" of the Courts, was not present during a time to up-grade the single Attempted Lewd Act to a Criminal Sexually Conduct in the 2nd.

Furthermore, the Court asked a question I am in front of him that day for the SVP proceedings is the CSC. Mr. Falk said; Second. And Mr. Morrow said; both. See.. SVP pp 12. Lines 6-10.

I informed Mr. Morrow, that I was under the impression that I plead guilty to one attempt. See.. SVP pp. 252. Lines 8-9.

Statement of Issue on Appeal

Can I be convicted as a sexually
Violent Predator when there was no clear and
convincing evidence that supported the dangerous-
ness Legal Standard?

Statement of The Case

The court and counsel error when the proceeding was allowed without the Due Process and equal protection of the Laws under S.C. Code of Law Ann §§ 44-48-10 Thru 170

Under ineffective assistant of counsel, (6) and Due Process and equal protection of the Laws (14) Amendments. Violations under the U.S.C.A. Const. Amend. 6, 14

ARGUMENT

I only have one sexually violent offense in my entire life. One criminal-sexual-conduct in the second degree in the year of (2006) but it was (2003) I was arrested.

One and only one "non-violent-offense". In (1986) I was arrested and convicted of attempted-lewd-act upon a child under the age of fourteen. Not never charged as four separate nor different cases of attempted-lewd-acts upon children. You will find inclosed different indictments, different legal documents stating criminal sexual conduct with minors - 1st degree, and served a ten year sentence.

I had father two babies with my conjugal visits from my wife. Furthermore, I was dropped off at the mall by myself or, with another inmate^s, the exact time of my incarceration at Walden Correctional in the year of (1986) with the above mention charge of that "NON-VIOLENT" charge. Never violent, and

I am so very sorry I have that one-violent-charge. I pray to please allow the courts to get this fabricated charges of more than one sexually violent- charges to be exterminated out of sight.

Please find the fact of Law, is interesting relating to my sexually violent-predator. See... To find a person to be a sexually violent predator, the factfinder must determine by clear and convincing evidence that

ARGUMENT

the person (1) has been convicted of an enumerated sexually violent offense, and (2) suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment. (West's FSA, § 394.912(10)). *Milner v. State*, 50 So. 3d 711 (Fla. Dist. Ct. App. 4th Dist., 2010). You will find the above mention and the following listings in (West Law 51 Amjur Pof 3d 299 51 Am. Jur. Proof of Facts 3d 299 (Originally published in (1999))).

The basis for involuntary civil commitment of a person as a sexually violent predator (SVP) is the person's dangerousness. West's RCWA 71.09.00 et seq. In re Detention of Aston, 251 P.3d 917 (Wash. Ct. App. Div. 1 2011)

Most statutes require the examiner to offer an opinion on whether or not the defendant meets the statutory criteria for commitment involving mental condition or future dangerousness. [FN53] Proof beyond a reasonable doubt. [FN65]

..., person found to be SVP is committed to custody of Department of Mental Health for appropriate treatment and confinement in secure facility designated by Director of Mental Health, and SVRA is also designed to ensure that committed person does not remain confined any longer than he suffers from mental abnormality

ARGUMENT

rendering him unable to control his dangerousness.

U.S.C.A. Const. Art. I, § 10, cl. 1; West's Ann. Cal. Const. Art. I, § 9; West's Ann. Cal. Welf. & Inst. Code 6600 et seq., 6600(a-c), 6604, 6605(a-c), 6607, 6608. *Hubbart v. Superior Court*, 19 Cal. 4th 1138, 81 Cal. Rptr. 2d 492, 969 P. 2d 584 (1999). Where is the fact Pro Se cannot control dangerousness?

Twofold purpose: Purpose of Sexually Dangerous Persons Act is twofold: (1) to protect ~~the~~ public by sequestering sexually dangerous person until such time as individual is recovered and released, and (2) to subject sexually violent dangerous person to treatment such that individual may recover from propensity to commit sexual offense and be rehabilitated. S.H.A. 725 ILCS 205/0.01 et seq. *People v. McVeay*, 302 Ill. App. 3d 960, 235 Ill. Dec. 984, 706 N.E. 2d 539 (2d Dist. 1999), appeal denied, 184 Ill. 2d 567, 239 Ill. Dec. 611, 714 N.E. 2d 530 (1999); West's Key Number Digest, Mental Health = 441.1.

Burden of proof: In a recovery proceeding under the Sexually Dangerous Persons Act, the state bears the burden of proof to show beyond a reasonable doubt that the applicant is still sexually dangerous. 725 Illinois Compiled Statutes Annotated 205/9. See... *People v. Trainor*, 196 Ill. 2d 318, 256 Ill. Dec. 813, 752 N.E. 2d 1055 (2001); West's Key Number Digest, mental Health = 466.

The defendant in a sexually violent predator (SVP) trial is entitled to a fair and accurate determination of his

ARGUMENT

status as an SVP, under procedures assuring that his liberty and other personal rights are not erroneously impaired. See... *Moore v. Superior Court*, 50 Cal. 4th 802, 114 Cal. Rptr. 3d 199 (2010).

In accordance with due process requirements, Sexually Violent Predator (SVPA) requires trier of fact to find that sexually violent predator (SVP) is dangerous at time of commitment; statutory criteria are expressed in present tense, indicating that each must exist when verdict is rendered, and person cannot be adjudged SVP unless he "currently" suffers from diagnosed mental disorder which prevents him from controlling sexually violent behavior, and which "makes" him dangerous and "likely" to reoffend, U.S.C.A. Const. Amend. 14; West's Ann. Cal. Const. Art. 1, § 7; West's Ann. Cal. Welf. & Inst. Code § 6600 (a). *Hubbart v. Superior Court*, 19 Cal. 4th 1138, 81 Cal. Rptr. 2d 492, 969 P. 2d 584 (1999).

In *Crane*, The Supreme Court Clarified and emphasized that the Constitution "only" permits the civil commitment of a Dangerous sex offender pursuant to a statute that requires proof; that a mental impairment significantly injurious an individuals ability to control his behavior. See... 534 U.S. at 412, 122 S. Ct. 867.

Therefore, under *Hendricks* and *Crane*, the civil commitment of Dangerous sexual offenders will normally involve individuals who find it particularly

ARGUMENT

difficult to control their behavior... in ordinary english [] they are unable to control their Dangerousness.

At the initial commitment proceeding, the SVP statute satisfies strict scrutiny by requiring the State to prove beyond a reasonable doubt that the individual suffers from a "mental disorder and is dangerous." See... Young, 122 Wash. 2d at 27-33, 857 P. 2d 989.

According to 51 Am. Jur. Pof 3d 299, 51 Am. Jur. Proof of Facts 3d 299 (Originally published in 1999) The final criteria is that the mental disorder must affect the person's volition so as to make it likely that he will commit acts of sexual violence in the future. "This prediction of "Dangerousness" is arguably the most difficult aspect of the process, largely because of its uncertainty. Research over the past thirty years shows a significant degree of inaccuracy in clinicians' prediction of "Dangerousness," especially with "False Positives" (People who were Predicted to be Dangerous but "did not" commit any "Dangerous Acts.")

Serious Difficulty Prong- 607 FED. Appx. 337 U.S.v. Ballard a determination of "sexual dangerousness" is for the fact-finder to decide among reasonable interpretation of the evidence and [to] determine the weight accorded to expert witnesses' U.S.v. Hall 664 F 3d 456 (4 Cir. 2012), U.S.v. Francis 686 F3d 265 (4 Cir. 2012)

ARGUMENT

whether an individual's is mentally ill to the degree, turns on the significance of "The Fact Information", as viewed by the expert psychiatrist or psychologist) the serious difficulty prong of "sexual Dangerousness" - refers to the degree of the the persons' volitional impairment, which impacts the persons' ability to refrain from acting upon his deviant sexual interest. Hall 664 F3d at 463.

Dangerousness, See... 351 S.C. 122. In re treatment and care of Luckabaugh (Sup. Ct. S.C. 2002) our conclusion is bolstered by the United States Supreme Court decision in Hendricks, which noted: "The act permits ~~in~~voluntary confinement, based upon a determination. That the person" currently suffers from a mental abnormality... and is likely to pose a future danger to the public... to the extent that past behavior is taken into account it is used..." solely for evidentiary purposes" Hendricks 521 U.S. at 370-371, 138 L.Ed 2d at 520-521 (emphasis in original). "The conviction requirement" is used only for evidentiary purposes to sound the existence of a past mental abnormality and "Dangerousness". That is likely to recur if left untreated.

Why is the Criteria For Future Dangerousness as set forth in cases: In re civil commitment of Stone, 711 N.W. 2d 831 (Minn. Ct. App. 2006). Hudson v. State

ARGUMENT

825 So. 2d 460 (Fla. Dist. Ct. 1st Dist. 2002); Murrell v. State 215 S.W. 2d 96 (Mo. 2007).

In an as applied challenge to no showing of dangerousness ever presented or separate hearing held to show such.

There is no consistent with the general underlying purpose of commitment statutes which is to protect the public from violent and dangerous felons.

See... (Cf. People v. Dyer (2002) 95 Cal. App. 4th 448, 456 [115 Cal. Rptr. 2d 527] Page 1207, (Sic) Exhibits: B, B1-7, E, H

Prayer for Relief... Courts will find that there is nothing that renders the Pro Se dangerous, are the ability to control my behavior at any particular time.

I was detained before I completed my (2015) prison sentence of (14) years. Kept in Horry County Detention for (19) months awaiting a Sexually Violent Predator Act trial without any "Due Process".

There was a notice of voluntary dismissal pursuant to S.C.R.C.P. 41(a)(1). Assistant Attorney General Mr. Christopher A. Morrow dismissed without prejudice.

Why was I released if I ~~were~~ extremely dangerous?

Released around April 17, 2017. I believe the State now they violated my Due Process of the Law.

Moreover, I moved to Spartanburg as a very productive citizen of the "United States".

ARGUMENT

I conformed to social norms with complete and full respect for the Law behaviors. I worked full time daily. Received a dollar and a half raise within a month. Member of a church every Sunday and a lot more involments. Meaningful and positive accountability group meetings one or more times a week. Had several mentors with all Turnpstart Ministry members involved in each of these meetings.

Still have a place to live, and have a full time job awaiting for me. Sex offenders treatment upon my release with a license doctor. I had a wonderful place to live with other sex offenders helping each other to stay productive and to stay focus on a better life. We participated in a sex offender's treatment every Monday, and doing very well. I was approved to participate in a two years are less schooling from the Selective Service through the South Carolina Works of Spartanburg. I paid in full my Community Service (Supervision). Obeyed all the rules. Paid G.P.S. in full (tracking devise). I volunteered my free time to churches, Kitchen Soup very grace fully. I have love and compassion for people. A need to help them, protect them, and not allow anyone to harm them. I register with the local Sheriff Office. Got my driver's license. Have over (5000) hours of meaningful

ARGUMENT

programs before departure from prison, I have my GED, and Gold Card Work Keys.

I am not a Dangerous person once are ever.

I do pray and plea for the Courts to find me not to be dangerous, and to release me. Allow me to prove I can and will be a productive citizen.

Prayer for Relief (Sic) Exhibit: B, B-1-7,

The hearing commenced at approximately 1:43 p.m.) See. SVP pp. 4, Line 1. First, Falk mention in deciding on opening statements if the jury should hear "extremely dangerous" should be mention are not in SVP pp 7, Line 24.

Mr. Morrow said; legislative findings in 44-48-20 and that they passed it with basially two bills in mind. See... SVP pp. 8, Lines 12-18 remove from his opening statement. Mr. Morrow had not proved anywhere on any documents at any time that I am guilty of an extremely dangerous.

Mr. Falk said; my client being "considered" an extremely dangerous violent predator... there's been any type of adjudication... See... SVP pp. 8, Lines 4-7. I believe it was ineffective assistant of counsed on Falk's part for suggesting jury should not hear. And on Mr. Morrow's part it would be prejudicial Keeping it from jury without proof of extremely dangerous.

ARGUMENT

Furthermore; In closing arguement's Mr. Morrow had made a strong leaning statement that made weight toward and directed at the jury that I, Mr. Collins was more dangerous as compared to the most familiar stereotype of predator that abduct children with promises of candy. See SVP pp. 257, Lines 19-25 and See SVP pp. 258, Lines 1-8. "Prejudicial."

Just to add light to another misleading the jury to believe I, Pro Se, had charmed my way inside the house of an elderly woman. The indictment said I pushed my way inside the house and made first rape. See SVP pp. 258, Lines 14-17. Again See SVP pp. 259, Lines 5-8... Makes me so dangerous, Mr. Morrow said; but at the beginning courts mention not to address dangerous.

Again, misleading jury into believing I molested 4 four children. Indictment does not state molested children. Painting a picture of most extremely dangerous to jury.

Again Mr. Morrow mislead the jury to believe I, Mr. Collins, violated my probation. Never do I remember violating any probation, because I never did. See SVP pp. 264, Lines 7-8. He's building a step-in-stone to most "extremely dangerous" sexually violent predator.

Mr. Falk said; the State told you (the jury) that I committed a probation violation, and mention that there was not absolutely no testimony on that See SVP pp. 270,

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Lines 3-12. Mr. Falk, should have objected to Mr. Morrow.

Now, the Judges makes statements concerning a dangerous act. SVF pp. 287, Lines 24-25. Again, Judge Brain Gibbons makes my name clear, Mr. Collins, serious difficulty in controlling his behavior. And... sexual violence is of such a degree that he poses a menace to the health and safety of others, so that "he's dangerous to others. Must See... SVF pp. 288, Lines 8-14. But yet, was confirmed the not to hear dangerous on SVF pp. 7, Lines 24-25, and See... SVF pp 8, Lines 4-8. Painting a picture a menace and very dangerous if release. Assistance to conviction.

STATEMENT OF THE CASE

SUBSTANTIVE AND PROCEDURAL DUE PROCESS

CHALLENGE TO PROBABLE CAUSE AND COMMITMENT

PROCEEDINGS IN AN "AS-APPLIED CHALLENGE"

THUS, ALSO RAISED AS A CHALLENGE TO AN

UNCONSTITUTIONAL STATUTE - S.C. CODE OF LAWS

44-48-10 THRU 44-48-170.

Civil Commitment Civil or Punitive?

ARGUMENT

When seeing if a Civil Commitment is Civil or Punitive the following Case "should be" used to decide the Legal Questions as a Novel Question of Law presented , in an 'As-Applied Analysis.'

Kennedy v. Mendoza-Martinez, 372 U.S. 144 (1963), (1) Whether the sanction involves "affirmative disability or restraint;" (2) "Whether it has historically been regarded as punishment;" (3) "Whether [the penalty] comes into play only [after] a finding of scienter;" (4) Whether the operation of the penalty promotes retribution or deterrence; (5) "Whether the Behavior to which [The Penalty] Applies is Already a Crime;" (6) Whether an alternative purpose is assignable for the penalty; and (7) Whether the penalty is "excessive in relation to the alternative purpose assigned." *Hendricks*, 117 S.Ct. at 2098 (Breyer, J., dissenting) (quoting *Kennedy v. Mendoza-Martinez*, 372 U.S. at 168-69). After applying these factors to *Hendrick's* case, Justice Breyer argued that each of them weighed in favor of finding the act to be punitive. See *id.* (Breyer, J., dissenting). Justice Breyer said that the *Kennedy v. Mendoza-Martinez* factors were merely helpful but not dispositive in evaluating a sanction as punitive or civil. See *id.* (Breyer, J., dissenting): He did not detail his use of these factors but rather said each one balances "in favor of Constitutional Characterization [of the act] as 'punishment.'" *id.* (Breyer, J., dissenting). However, sexually violent predator statutes are overbroad and some are people who can make choices and respond to criminal sanctions. This extension of civil commitment, "[i]n the absence

of mental illness sufficiently serious violates the first principle of limited government.... to treat every mentally competent adult as a free and autonomous person responsible for his chosen actions.... and only for his chosen actions.” (Arguing that treatment may benefit sex offenders, but they are generally considered to be competent and thus are entitled to make their own decisions about treatment.)*** [Scienter (sy-en'-ter) Knowingly. That allegation in a pleading indicating in a Defendant the knowledge of wrong with which a crime or tort was committed.]***

Statement of the Case

“ Without a “Judicial Proceeding to Determine 'Dangerousness-' Violate the United States Constitution, in the Probable Cause Hearing and then in the Voluntary Committal Hearing. Counsel in the Probable Hearing stated: “That the Act is Unconstitutional.” Now the Petitioner is extending on this in the following Legal Issue in an “As-Applied Analysis.”

According to 51 Am. Jur. Pof. 3d 299, 51 Am. Jur. Proof of Facts 3d 299 (Originally published in 1999) The final criteria is that the mental disorder must affect the person’s volition so as to make it likely that he will commit acts of sexual violence in the future. “ This prediction of *Dangerousness* is arguably the most difficult aspect of the process, largely because of it’s uncertainty. Research over the past thirty years shows a significant degree of inaccuracy in clinicians’ prediction of *Dangerousness*, especially with “False Positives” (People who were Predicted to be Dangerous but Did Not Commit any Dangerous Acts.)

1. Recently, 929 N.Y.S. 2d 376, 2011-21269, State v. Enrique T. / became on March 29, 2011, the case (now entitled Mental Hygiene Legal Service v. Cuomo --- F. Supp. 2d ---,--- 2011 WL 1344522,*11(S.D.N.Y. 2011)(“MHLS-11”), the Southern District issued a permanent injunction precluding the Attorney General from seeking to enforce the provisions of MHL § 10.06 (k); the

Southern District found that the automatic detention provisions of the statute triggered upon a finding of probable cause that a Petitioner is a detained sex offender requiring civil management- ***“Without a Judicial Proceeding to Determine Dangerousness – Violate the United States Constitution.”*** id. at ___, at *15.

The Southern District explicitly rejected the determinations of some New York courts that the New York legislature intended that MHL § 10.06 (k) implicitly requires a probable cause finding that the Petitioner is Dangerous to Society and that Lessor Conditions of supervision than incarceration will not suffice. MHLS-11 at ___, at *11.

The Southern District held that such an interpretation does not avoid the Constitutional problem in that, although the statute allows Petitioners who are found after trial to require civil management to either be committed to a secure facility or to be placed on strict probation-like supervision, section § 10.06 (k) requires detention of all sex offenders requiring civil management, held that MHL § 10.06(k) is facially unconstitutional because it mandates pre-trial commitment of a Petitioner after a finding of probable cause and does not allow for the ***“Individualized and Specific Determination of Dangerousness that the Constitution Requires in Civil Commitment Cases.”*** id. at ___, at *11,15.

“The United States Supreme Court in United States v. Salerno, 481 U.S. 739, 107 S.Ct. 2095, 95 L. Ed. 2d 697 (1987), held that the Due Process Protections of the Fifth and Fourteenth Amendments to the United States Constitution mandate a “Specific finding of Dangerousness” of a Petitioner in a pre-trial detention context. The Supreme Court held that any such pre-trial detention also “Requires” a finding that “Lessor Conditions than Confinement ‘would not’ Suffice to protect the community. 481 U.S. at 750, 107 S.Ct. 2095.

In *United States v. Salerno*, a case involving challenges to the Constitutionality of the pre-trial detention provisions of the Federal Bail Reform Act of 1984 (“Bail Reform Act”), the United States Supreme Court articulated the factors that a court must consider in determining whether a pre-trial detention scheme meets the Constitutional Due Process Requirements of the Fifth and Fourteenth Amendments to the United States Constitution. 481 U.S. at 746, 107 S.Ct. 2095.

In 1975, in *Connor v. Donaldson*, 422 U.S. 563, 95 S.Ct. 22486, 45 L.Ed. 2d 396 (1975), the Supreme Court held that it was Unconstitutional for a State to continue to confine a harmless, mentally ill person. There, the Court ruled that, as a matter of Constitutional Due Process, even if the initial

commitment of the person was permissible, confinement could not continue if the basis for such confinement-current Mental Illness and Dangerousness-no longer existed. 422 U.S. at 574-76, 95 S.Ct. 2486.

A few years later, in Addington v. Texas, 441 U.S. 418, 99 S.Ct. 1804, 60 L.Ed. 2d 323 (1979), the United States Supreme Court held that Constitutional Due Process required the government to prove two statutory preconditions by clear and convincing evidence before a court could commit an individual to a mental institution: (1) That the person sought to be committed is mentally ill; and (2) that such person requires hospitalization for his own welfare and protection of others. *id.* at 432-33, 99 S.Ct. 1804.

In Addington, the issue was not pre-trial detention, but rather the requisite standard of proof to civilly confine a person (clear and convincing, not preponderance of the evidence). 441 U.S. at 419, 99 S.Ct. 1804.

A year later, in Viek v. Jones, 445 U.S. 480, 492-93, 100 S.Ct. 1254, 63 L.Ed. 2d 552 (1980), the Supreme Court held that, absent a determination in a civil commitment proceeding of "*Current Mental Illness and Dangerousness*," even an incarcerated prisoner serving a criminal sentence could not be transferred to a mental institution. There, the Supreme Court noted that even a convicted felon serving his criminal sentence has liberty interest, which is not extinguished by his criminal confinement, in not being transferred to a mental institution and thus classified as mentally ill. 445 U.S. at 493, 100 S.Ct. 1254. The Court held that "[T]he Loss of Liberty produced by an involuntary commitment is more than a Loss of Freedom from Confinement." *Id.* at 492, 100 S.Ct. 1254. That case, like Addington, did not address pre-trial detention.

In 1991, in Foucha v. Louisiana, 504 U.S. 71, 79, 112 S.Ct. 1780, 118 L.Ed. 2d 437 (1991), the Supreme Court held civilly confining an individual who no longer suffered from a Mental Illness was Unconstitutional. There, the individual at issue previously had been found not guilty of a crime by reason of insanity and was committed to a mental institution. *id.* Sometime thereafter, the State sought to continue his confinement even though he no longer suffering from mental disease or illness. 504 U.S. at 75, 112 S.Ct. 1780. The Court found that such confinement Violated the Individual's Due Process Rights even if he might be dangerous because civil confinement "*Requires*" a finding, by Clear and Convincing Evidence, of both "*Mental Illness and Dangerousness*". The Court held that "[D]ue Process Requires that the nature of [the] commitment bear some reasonable relation to the purpose for which the individual is [being] committed." 504 U.S. at 79, 112 S.Ct. 1780.

In, *Foucha*, the Court took note of the fact that in *Salerno* it had carved out certain narrow circumstances in which limited confinement of persons who pose a danger to himself or to the community would be Constitutional. 504 U.S. at 79-80, 112 S.Ct. 1780.

In determining that Louisiana's scheme of civil confinement in *Foucha* failed to meet the Constitutional Requirements it had identified in *Salerno*, the Court noted that, unlike the sharply focused statute in *Salerno*, Louisiana scheme of confinement, "[was] not carefully limited." 504 U.S. at 81, 112 S.Ct. 1780. The Court pointed out that the Louisiana statute did not afford Mr. Foucha "an adversary hearing at which the *"State must prove by clear and convincing"* evidence that Mr. Foucha is *"Demonstrably Dangerous to the Community."* Id. at 83, 112 S.Ct. 1780. The Court observed that the Louisiana statute at issue did not require the State to prove anything; it put the burden on the detainee to prove he was not dangerous. id.

In concluding that the Louisiana detention scheme at issue before it was Unconstitutional, the Court emphasized its finding in *Salerno* that "detention prior to trial or without trial is [a] carefully limited exception" to the norm of liberty. Id.

3. The Fifth Amendment to the United States Constitution guarantees that "[n]o person shall be..... deprived of *Life, Liberty*, or property, without Due Process of Law." U.S. Const. Amend. V.. The United States Supreme Court has articulated a two -step analysis with respect to any claim of a Due Process Violation under the Fifth Amendment. *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S.Ct. 2593, 33 L.Ed. 2d 484 (1972).

First, the Court must determine if a Liberty Interest is affected. id. If a liberty interest is at stake, then the Court must determine the process which is due. id.

In determining what process is due in a particular circumstance, the Supreme Court, in *Matthew v. Eldridge*, 424 U.S. 319, 334-35, 96 S.Ct. 893, 47 L.Ed. 2d 18 (1976), set forth three factors that a Court *"must"* weigh: (1) The private interest that *"shall be"* effected by the official action; (2) The risk of erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute safeguards; and (3) The government's interest in the procedure used, including the function involved and the fiscal and administrative burdens that additional or substitute procedural requirements would entail. id. at 334-35, 96 S.Ct. 893, citing *Goldberg v. Kelly*, 397 U.S. 254, 263-71, 90 S.Ct. 1011, 25 L.Ed. 2d 287 (1970).

A. Liberty Interest

"Freedom from Bodily Restraint has always been at the core of the Liberty Protected by the

Due Process Clause [of the Fifth Amendment to the United States Constitution of the United States of America]." *Foucha*, 504 U.S. at 80, 112 S.Ct. 1780, quoting *Youngberg v. Romeo*, 457 U.S. 307, 316, 102 S.Ct. 2452, 73 L.Ed. 2d 28 (1982). The Supreme Court has held that "[i]t is clear that commitment for any purpose constitutes a significant Deprivation of Liberty that "Requires Due Process Protection." *Foucha*, at 80, 112 S.Ct. 1780, quoting *Jones v. United States*, 463 U.S. 354, 361, 103 S.Ct. 3043, 77 L.Ed. 2d 694 (1983). Absent sufficient procedural safeguards, Freedom from Bodily Restraint is a Right that generally cannot be abridged. *Vitek v. Jones*, 445 U.S. 480, 492, 100 S.Ct. 1254, 63 L.Ed. 2d 552 (1980).

(1) With respect to the statute at issue here, S.V.P. Act §§ 44-48-80, 44-48-90 and 44-48-100 mandates confinement of a person upon a finding that there is probable cause to believe that person is a sexually violent predator requiring civil confinement. The section also mandates that such a person "must be" so confined pending the completion of a sexually violent predator trial. Although, pursuant to S.V.P. Act § 44-48-90, the trial of the matter is to be conducted within 60 days of the probable cause hearing, there is no time frame set forth in the statute with respect to scheduling or completing the dispositional phase of the trial (*Wherein the court makes a determination of "Dangerousness" and "Confinement"*). As it is noted, the actual time period for completion of such trials is approximately one year.

The Court should find, as did the Southern District of New York in MHLS-I and MHLS-II, that a Substantial Liberty Interest is implicated by the operation of the mandatory confinement provisions of S.V.P. Act §§ 44-48-80 and 44-48-90. Accordingly, a person is entitled to Due Process as he faces loss of his liberty via the mandatory pre-trial detention scheme of S.V.P. Act §§ 44-48-80 and 44-48-90 pending the completion of a sexually violent predator trial.

B. S.V.P. Act §§44-48-80 and 44-48-90 does not meet the requisite Due Process

As set forth below, this Court should find that, having weighed the three factors set forth in *Mathews*, S.V.P. Act §§ 44-48-80 and 44-48-90 violates petitioner's due process rights.

(1) Petitioner's interest in avoiding mandatory detention pending trial is substantial

As to the *First Mathews Factor* --- the private interest that will be affected by the official action---- this Court should find that petitioner has a strong liberty interest that is substantially affected by the mandatory pre-trial confinement scheme of S.V.P. Act §§ 44-48-80 and 44-48-90.

Petitioner began civil confinement on or about September 7, 2011, approximately 29 months ago, when his term of criminal incarceration was complete. Although the Court now has completed the

probable cause hearing with respect to finding that petitioner is a sexually violent predator requiring civil commitment, with "*No Showing of Dangerousness*". (*The trial would not have been completed within the sixty day statutory requirement by law*).

Thus, Petitioner has faced and continues to face "A Significant Deprivation of [h]is Liberty" in mandatory pre-trial detention awaiting adjudication of his sexually violent predator civil commitment trial. (*The State, Department of Mental Health and Petitioner with no counsel, has petitioned the Court for his trial as a Matter of Right by Law. Yet, the Department of Mental Health is in violation of the Statutory Requirement in section §§ 44-48-110 and 44-48-120, as to this date*).

(2) Petitioner's risk of Erroneous Deprivation of Liberty is great under §§ 44-48-80 and 44-48-90 and there is substantial value in adding additional procedural safeguards.

The *Second Mathews Factor* requires the Court to examine the risk of erroneous deprivation of the interest at stake as a result of the State's procedures and the probable value, if any, of additional or substitute safeguards with respect to that interest. *Mathews* at 334-335, 96 S.Ct. 893. Here the Court should find that the risk of an erroneous deprivation of petitioner's Liberty under section §§44-48-80 and 44-48-90 pre-trial detention scheme is great.

(a) Petitioner's Deprivation of Liberty awaiting trial under section §§ 44-48-80 and 44-48-90 is erroneous and is greater *Consequence* than he would face after a trial.

Section §§ 44-48-80 mandates detention after a finding of probable cause until completion of the trial. *Supreme Court Precedent*, set forth in *Salerno*, instructs that a person can be confined pending trial only if, along with a finding of probable cause, the State proves by clear and convincing evidence that there are no conditions of release that can reasonably assure the safety of the community or any person, before such person may be detained pending trial. *Salerno* at 750, 107 S.Ct. 2095. Such precedent controls and the Courts are bound to follow it. *Hynes v. Tomei*, 92 N.Y. 2d 613, 629, 684 N.Y.S. 2d 177, 706 N.E. 2d 1201 (1998) (State courts are bound under the Federal Constitution to follow controlling Supreme Court Precedent), cert. denied, 527 U.S. 1015, 119 S.Ct. 2359, 14 l. L.Ed 2d 254 (1999); *People v. Cortes*, 80 N.Y.S. 2d 201,211, 590 N.Y.S. 2d 9, 604 N.E. 2d 71 (1992) (trial court bound to follow existing precedent).

Here, no such finding of "*Dangerousness or Lesser Conditions than Confinement*" is Required by or even permitted by statute §§ 44-48-80 and 44-48-90. Even if such finding were Required by the statute, no such finding can be made here.

The Attorney General presented no evidence that *Lesser Conditions than Confinement* would

not suffice to protect the safety of the public, nor was there any finding of *Dangerousness* either at the probable cause hearing. Indeed, at the September 7, 2011, voluntary committal hearing “none of the above referenced information was presented.”

Finding that Petitioner is a sexually violent predator because there are no Lesser Restrictive Conditions than Confinement not authorized under the statute renders meaningless the “*Constitutional Requirement*” that a Court “*must*” make such a finding before confining a person. See *Salerno* at 750, 107 S.Ct. 2095. If that constituted sufficient “*proof*,” no such finding could be meet the “*specific*” or “*individualized*” mandate of Due Process as such finding automatically would be made in every S.V.P. Act §§ 44-48-80 and 44-48-90 case. The Attorney General fell short of showing (*as required Salerno*) that Petitioner's pre-trial detention under § 44-48-80 meets “*Constitutional Muster*” in that the Attorney General has failed to show that “*no Lesser Conditions than Confinement would suffice to protect the community if petitioner were to be released pending trial.*” The fact that no lesser restrictions than confinement are authorized by statute is not the same as proving that no lesser conditions than confinement would suffice. (*Indeed as set forth, the statute is Unconstitutional because of the very fact that it does not authorize any Conditions Less than Confinement.*)

Petitioner's, current pre-trial detention awaiting trial is one more onerous than the consequences that petitioner faces even if a jury were to find, after a trial, that he suffers from a mental abnormality. (*Petitioner is under the statute even though he was not informed of this at his Voluntary Committal Hearing.*) Civil confinement after such a jury finding cannot occur unless a Court makes a finding, by Clear and Convincing Evidence, that Petitioner is a dangerous sex offender requiring civil confinement. There is very little likelihood, if any, of such a finding in this case in light of the recent evaluation report, completed on or about July 2011. Fortunately, the Court has statutory authority to order Petitioner released pending trial, or surrender his right to trial and consent to a finding of mental abnormality so that he may be released back to the community. (*Petitioner waived his right to trial, to go for treatment pending trial, yet, he was fooled by the Court, his Lawyer, and the Attorney General into thinking that when he voluntarily committed himself that he was going to treatment only, not under the order of commitment that has only the Judges signature on it. Petitioner did not agree to treatment under the statutes for the sexually violent predator act, nor, did he agree to be labeled as a sexually violent predator under the S.V.P. Statutes.*)

Due Process cannot countenance a statute that mandates such a choice.

(b) Additional or substitute safeguards are essential

This Court should as well as the Federal Courts should recognize that S.V.P. Act §§ 44-48-80 and 44-48-90 is insufficient, as written, to fall within the Constitutional Requirements of the narrow pre-trial detention exceptions to the liberty norm in our society. Thus, additional safeguards are essential for the Legislature to convert the Unconstitutional Provisions of S.V.P. Act §§ 44-48-80 into a statute that contains the requisite Constitutional Due Process safeguards for pre-trial detention.

Both the Federal Courts and this Court should recognized that the S.V.P. Act §§ 44-48-80 pre-trial detention provision cannot be enforced if there is no individualized, “*Specific finding of 'Dangerousness'*” and that “*Lesser Conditions than Confinement*” would not suffice to protect the public. such courts should have required such findings or made such findings after a probable cause proceedings in S.V.P. Act cases despite the language of § 44-48-80.

(c) The government’s interest in protecting the public is important but § 44-48-80 is not narrowly tailored to meet the legislative intent of S.V.P. Act

The *Third Mathew Issue* is that this Court “*must*” weigh in evaluating the process that is due is the State’s interest in the procedures set forth in § 44-48-80, including the fiscal and administrative burdens that would accompany additional safeguards. *Mathews* at 334-335, 96 S.Ct. 893.

As to this *Third Mathews factor*, the Courts should find that the government, as evidenced by its Legislative findings, has interest in requiring all pre-trial people to be detained upon a finding of probable cause that they are sexual violent predator’s requiring civil confinement.

There is no dispute that South Carolina’s Legislature enacted the S.V.P. Act to ensure that the public is protected from recidivist sex offenders. § 44-48-80. Nonetheless, the Legislative findings of the S.V.P. Act expressly provide that the “*Danger to society [posed by recidivist sex offenders] should be addressed through comprehensive programs of treatment and management.*”

The Legislative findings also provide that only “[i]n extreme cases, “*Confinement of the Most Dangerous Offenders*” will need to be extended by civil process in order to provide them such treatment and to protect the public from their recidivist conduct. S.V.P. Act § 44-48-10.

In addition, the definition of ‘ sex offender requiring civil confinement’ in the S.V.P. Act makes no express distinction between a “dangerous sex offender requiring confinement,” and “ a sex offender requiring strict and intensive supervision.” S.V.P. Act § 44-48-10.

Notwithstanding, the Legislative determinations that only in “extreme cases” is civil commitment required, § 44-48-10 makes no distinctions for the purpose of pre-trial detention, nor allows for such distinctions with respect to its mandatory detention provisions.

S.V.P. Act § 44-48-10 turns these Legislative determinations on their heads by mandating pre-trial detention of all sex offenders -whether they meet the *Dangerousness Criteria* or not-upon a finding of probable cause that such persons are sex offenders requiring civil confinement and by omission of any provision for supervised release and community based treatment for appropriate sex offenders pending trial.

Finally, with respect to this *Third Mathews factor*, this Court should note that the States fiscal and administrative burden would be substantially decreased if the mandatory detention scheme of S.V.P. Act § 44-48-80, were modified to only require detention of those persons who could not be safely maintained in the community under conditions less restrictive than confinement such as supervision, treatment and/ or medication.

(d) Section 44-48-80 is unconstitutional on its face as it violates Petitioner's Due Process Rights

In analyzing the Constitutionality of S.V.P. Act § 44-48-80, the Court should be careful not to “minimize the importance and fundamental nature of an Individual’s Right to Liberty” (*Foucha* at 80, 112 S.Ct. 1780, quoting *Salerno* at 750, 107 S.Ct. 2095), yet mindful that determination that a statute is facially invalid is a last resort-made only when there are no circumstances, no reading of the statute, under which the provisions of the statute are valid. *Salerno*, 481 U.S. at 739, 107 S.Ct. 2095.

The mandatory pre-trial confinement provision of S.V.P. Act § 44-48-80 upon a finding of probable cause cannot pass Constitutional muster in light of Supreme Court Precedent in *Salerno* and *Foucha*. For all these reasons set forth, supra, the Courts should concur with those findings.

3. S.V.P. Act § 44-48-80 is clear and unequivocal regarding confinement after a finding of probable cause

The first rule of statutory construction is to give a statute its plain meaning. see *Mckinney’s Cons. Laws of N.Y.*, Book 1 Statutes § 94; (“ Starting point in any case of interpretation must always be the language itself, giving effect to the plain meaning thereof”). The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. *Charleston County Sch. Dist. v. State Budget and Control Bd.*, 313 S.C. 1, 437 S.E. 2d 6 (1993). Under the plain meaning rule, it is not the court’s place to change the meaning of a clear and unambiguous statute. *In re. Vincent J.*, 333 S.C. 233, 509 S.E. 2d 261 (1998)(citations omitted). Where the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. *id.* at 233, 509 S.E. 2d at 262. (citing *Paschal v. State*

Election Comm'n, 317 S.C. 434, 454 S.E. 2d 890 (1995)). “What a Legislature says in the text of a statute is considered the best evidence of the Legislative intent or will. Therefore, the Courts are bound to give effect to the expressed intent of the Legislature.” Norman J. Singer, Sutherland Statutory Constriction § 46.03 at 94 (5th Ed.1992) also under Media General Communications, Inc. v. South Carolina Dept. of Revenue, 338 S.C.138, 694 S.E. 2d 525 (S.C.2010).

The plain meaning of S.V.P. Act § 44-48-80 is that Petitioner “*must be*” confined through the pendency of a trial after that there is probable cause to believe such person is a sexual violent predator requiring civil confinement. There is no option for release of a person with supervision if Lessor Conditions than Confinement would suffice.

Irrespective of whether there is a finding of “*Dangerousness*” or “*Lesser Conditions than Confinement*” would suffice to protect the public, the statute requires that, upon finding of probable cause to believe petitioner is a sexual violent predator requiring civil confinement, he “*must be*” confined under the statute through the pendency of the trial.

4. The court cannot Amend. S.V.P. Act § 44-48-80 so that it meets constitutional muster.

In construing statutes, it is well established that where a statute is clear and explicit in its language, omissions cannot be supplied by construction.

The mandatory confinement provision of S.V.P. Act § 44-48-80 fails to require the individualized and specific determination of “*Dangerousness*” that “*The Constitution Requires.*” See Salerno, 481 U.S. at 751, 107 S.Ct. 2095. Nonetheless, adopting the language articulated by the Federal Court – that a person is *Dangerous* and that *No Lesser Conditions than Confinement* would suffice to protect the public --- have made such findings and civilly confined persons pending trial, thus avoiding a finding that that portion of S.V.P. Act § 44-48-80 is facially Unconstitutional.

Thus, the Courts should find that the mandatory confinement provisions of S.V.P. Act § 44-48-80 is unconstitutional in that they lack “*The Requisite Due Process Protections Mandated in Salerno and Foucha.*” As this Court has no power to re-write the statute to allow the petitioner to be released under supervision and treatment pending trial, the Court has to declare that the provisions of S.V.P. Act § 44-48-80 is Unconstitutional.

CONCLUSION

Challenge is As-Applied Conditions of Confinement: Most fundamentally, the court confuses a facial challenge to the validity of a statute with a challenge to the way it is applied in fact. Your claim is As-Applied: Dismissal is required because the State's punitive conduct towards you rendered the Statute as applied to you unconstitutionally excessive.

An as-applied challenge puts at issue not the facial validity of the statute but rather the alleged unconstitutional application of the statute to the prisoner. Compare *In re Detention of Turay*, 139 Wash. At 415 n. 5 27, 986 P. 2d at 809 n. 27 (1999). It is specifically your claim, although the court would mischaracterize it, that "unconstitutional conditions render the sentencing statute, § 44-48-100, unconstitutional....." The court, at least in the sense you do not deny the statute *could* be constitutionally applied although it is not here. Your as-applied claim is thus identical to that asserted in *Young*, where Young, imprisoned under the identical Washington sex predator statute, appealed the district court's denial of his petition for writ of habeas corpus, claiming entitlement to release based upon the punitive nature of his confinement.

In *Young*, the United States Court of Appeals reversed dismissal of the writ, remanding for a fact-finding hearing, holding:

"[I]f Young's confinement pursuant to the Washington statute is punitive, then the statute, as-applied to Young, violates the *ex post facto* and *double jeopardy* clauses of the United States Constitution." *Young*, 176 F. 3d at 1199, amended (Sept. 16, 1999). Your claim, and the facts supporting it are indistinguishable from *Young's* with one important exception: The lack of treatment and punitive nature of your confinement has not been facially established by the trial court, is not challenged on appeal, and is therefore a verity for the purpose of review.

THE AS-APPLIED CHALLENGE ALSO COVERS SOUTH CODE OF
LAW (1976), ANN. §§ 44-48-110, 120, 130 AND 170 IN AN "AS-APPLIED
CHALLENGE TO COLLINS' CONSTITUTIONAL (STATE AND FEDERAL);
STATUTORY, COMMON LAW RIGHTS, AND THE UNLAWFUL RESTRAINT
PLACED UPON COLLINS FOR THESE VIOLATIONS, FOR ONE (1) YEAR:

PRAYER FOR RELIEF

THERE IS ONLY ONE ANSWER, TO THIS AS-APPLIED CHALLENGE
AND THAT IS, COLLINS' RELEASE. THERE IS NO OTHER DAMNABLE ABSQUE
INJURIA FOR COLLINS TO PURSUE AS NOTED IN COMPLAINT. HE HAS
TRIED.

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE MATTER OF THE CARE AND
TREATMENT OF

ROBBIE COLLINS,
Respondent

) IN THE COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
) CASE NO. 2015-CP-26-1841
)
)
)
) NOTICE OF VOLUNTARY DISMISSAL
) PURSUANT TO S.C.R.C.P. 41(a)(1)
)
)

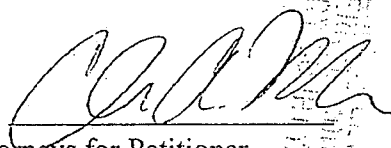
NOTICE OF VOLUNTARY DISMISSAL PURSUANT TO S.C.R.C.P. 41(a)(1)

Pursuant to S.C.R.C.P. 41(a)(1) of the South Carolina Rules of Civil Procedure, the petitioner the State of South Carolina and or their counsel, hereby give notice that the above captioned action is voluntarily dismissed, without prejudice against the respondent Robbie Collins.

Respectfully Submitted,
ALAN WILSON
Attorney General

CHRISTOPHER A. MORROW
Assistant Attorney General

April 13, 2017.
Conway, South Carolina

By: 
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Exhibit: A-1

A-1

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EXHIBIT B

86-GS-32-1858

86-GS-32 1858

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

October Term, 1986

THE STATE

VS.

ROBBIE CARROLL COLLINS

Warrant #B599003

CDR #159

INDICTMENT FOR

COMMITTING OR ATTEMPTING TO COMMIT
A LEWD ACT UPON A CHILD UNDER FOURTEEN

Donald V. Myers, Solicitor

TRUE BILL

Sara J. La Fountain

Foreman of Grand Jury

Oct. 9, 1986

ICAW PRINTERS.

COLUMBIA, S. C. 29205.

Witnesses

Cato, LCSD

Verdict

Foreman

Mike Kolb, Asst P.D.

Witnesses

Cato, LCSD

ATTORNEY

ADDRESS

DOB

RACE

SEX

SS

DR. LIC.

Verdict

Foreman

86-65-32-2145
86-65-32-2145
The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

December

Term, 19 86

THE STATE

VS.

24 ROBBIE CARROLL COLLINS W

Warrants #B551750

#B551751, #B551752

CDR #159

[Signature]

INDICTMENT FOR

COMMITTING OR ATTEMPTING TO COMMIT A
LEWD ACT UPON CHILDREN UNDER FOURTEEN

Donald V Myers, Solicitor

WAVE

Foreman of Grand Jury

Witnesses

Cato, LCSD

Verdict

Foreman

86-GS-32

1857

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

October

Term, 19 86

THE STATE

VS.

ROBBIE CARROLL COLLINS

Warrants #B551750

#B551751

#B551752

CDR #159

INDICTMENT FOR

COMMITTING OR ATTEMPTING TO COMMIT
A LEWD ACT UPON CHILDREN UNDER FOURTEEN

Donald V. Myers, Solicitor

TRUE BILL

Sara J. La Fountain

Foreman of Grand Jury

Oct. 9, 1986

McCAW PRINTERS.

COLUMBIA, S. C. 29205.

86GS-32-1856

86-GS-32 1856

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

October Term, 19 86

THE STATE

VS.

ROBBIE CARROLL COLLINS

Warrant #B599003

CDR #159

INDICTMENT FOR

ASSAULT UPON A MINOR WITH INTENT TO
COMMIT A SEXUAL BATTERY IN THE FIRST
DEGREE

Donald V. Myers, Solicitor

TRUE BILL

Sara J. La Fountain

Foreman of Grand Jury

Oct. 9, 1986

McCAW PRINTERS.

COLUMBIA, S. C. 29205.

Witnesses

Cato, LCSD

Verdict

Foreman

General Sessions

CASE HISTORY FOR CASE 1986GS3201858

The State of South Carolina VS Robbie Carrol Collins

FILED DATE: 12/13/1994

CASE TYPE: GS

STATUS: Disposed

INDICTMENT NUMBER: 1986GS3201858

ASSIGNED JUDGE: Clerk Of Court C P, G S, And Family Court

DISPOSITION JUDGE: Solicitor

CASE PARTIES:

Defendant Collins, Robbie Carrol

CASE HISTORY FOR CASE 1986GS3201858

Collins, Robbie Carrol

Age: Unknown

DOB: Unknown

DL#:

SSN: 000-00-0000

CHARGE		VIOL. DATE	DISPOSITION	DISP. DATE	
0159	CRIMINAL SEXUAL CONDUCT WITH MINORS - 1ST DEGREE	12/13/1994	Nolle Prosequi	12/9/1986	
COST		ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY

Total:

DATE	TIME	EVENT DESCRIPTION
------	------	-------------------

General Sessions
CASE HISTORY FOR CASE B551750

The State of South Carolina VS Robbie Carrol Collins

FILED DATE: 2/7/1994

CASE TYPE: GS

STATUS: Disposed

INDICTMENT NUMBER: 1986GS3202145

ASSIGNED JUDGE: Clerk Of Court C P, G S, And Family Court

DISPOSITION JUDGE: Moore, James E

CASE PARTIES:

Defendant Collins, Robbie Carrol

516 FOREST DR, GASTON, SC 0

CASE HISTORY FOR CASE B551750

Collins, Robbie Carrol

516 FOREST DR

Age: Unknown

DL#:

DOB: Unknown

SSN: 250-29-8147

GASTON, SC 0

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0159 CRIMINAL SEXUAL CONDUCT WITH MINORS - 1ST DEGREE	8/26/1986	Pled Guilty	12/9/1986
SENTENCING: 10 YRS;;10 YRS;;			

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
3/16/2016	2:08 PM	Filing recorded: Letter/Reply to Inmate
3/25/2016	1:36 PM	Filing recorded: Letter/Reply to Inmate

Print Date: 06/12/2018
Print Time: 11:59:26AM
Requested By: C32BBEDENB

CaseHistory.rpt V6.1

Page 1 of 1

Exhibit: B-5

General Sessions
CASE HISTORY FOR CASE B599003

The State of South Carolina VS Robbie Carrol Collins

FILED DATE: 2/7/1994

CASE TYPE: GS

STATUS: Disposed

INDICTMENT NUMBER: 1986GS3201856

ASSIGNED JUDGE: Clerk Of Court C P, G S, And Family Court

DISPOSITION JUDGE: Solicitor

CASE PARTIES:

Defendant Collins, Robbie Carrol

CASE HISTORY FOR CASE B599003

Collins, Robbie Carrol

Age: Unknown
DL#:

DOB: Unknown
SSN: 000-00-0000

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0159 CRIMINAL SEXUAL CONDUCT WITH MINORS - 1ST DEGREE	7/16/1986	Nolle Prosequi	12/9/1986

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
3/16/2016	2:08 PM	Filing recorded: Letter/Reply to Inmate
3/25/2016	1:36 PM	Filing recorded: Letter/Reply to Inmate

Print Date: 06/12/2018
Print Time: 11:59:58AM
Requested By: C32BBEDENB

CaseHistory.rpt V6.1

Page 1 of 1

Exhibit: B-6

General Sessions
CASE HISTORY FOR CASE B551751

The State of South Carolina VS Robbie Carrol Collins

FILED DATE: 2/7/1994

CASE TYPE: GS

STATUS: Disposed

INDICTMENT NUMBER: 1986GS3201857

ASSIGNED JUDGE: Clerk Of Court C P, G S, And Family Court

DISPOSITION JUDGE: Solicitor

CASE PARTIES:

Defendant Collins, Robbie Carrol

CASE HISTORY FOR CASE B551751

Collins, Robbie Carrol

Age: Unknown
DL#:

DOB: Unknown
SSN: 000-00-0000

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0159 CRIMINAL SEXUAL CONDUCT WITH MINORS - 1ST DEGREE	8/26/1986	Nolle Prosequi	12/9/1986

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
3/16/2016	2:08 PM	Filing recorded: Letter/Reply to Inmate
3/25/2016	1:36 PM	Filing recorded: Letter/Reply to Inmate

Print Date: 06/12/2018
Print Time: 11:59:44AM
Requested By: C32BBEDENB

CaseHistory.rpt V6.1

Page 1 of 1

Exhibit: B-7

9:09:41 Monday, January 19, 2015

CMTI100D
OMCOMITA

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
CONVICTION SUMMARY

01/19/15
C035477

SCDC# > 138314

COLLINS, ROBBIE CARROLL

CURR LOC: ALLENDAL

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

SCDC CLASSIFICATION...: VIOLENT

NUM	CONVICTION OFFENSE	INCARC	SENT	SENT	SENT	SENT	SENT	CONV	VIO	
		YRS	MO	DYS	DATE	START	PROJ	COMP	STAT	IND
* S00002	CRIMINAL SEX CNDCT 2N	014	00	000	01/10/06	12/06/03	10/27/2015	ACT	V	V
S00001	LEWD ACT/CHILD UNDER	010	00	000	12/09/86	09/14/86	/	/	PAR	N

MAKE A SELECTION AND PRESS <ENTER>...

PAGE: 0001

PF3-ADD PF4-MODIFY/REVOKE PF6-DISPLAY CONSEC

PF9-DETAIN

PF12-SUMREPT

Exhibit B-8

LEWD ACT/CHILD UNDER 14 10 0 0 LEXINGTON 09/14/1986 N 4 00001

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINERS (HOLD,WANTED,NOTIFY):

LEWD ACT/CHILD UNDER 14 NOTIFY OPEN ARREST NOTIFICATION CATEG:4

ESCAPES:

09/17/2002 OTHER ESCAPE RELATED

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

05/18/2009 POSSESSION OF A WEAPON DISMISSED MAJOR DISC. HEARING N

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

05/15/1987 ABUSE OF PRIVILEGES CONVICTED MINOR DISC. HEARING

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

08/01/2014	ALLEDALE	INCARCERATED	ADMINISTRATIVE
08/01/2014	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
07/08/2014	ALLEDALE	INCARCERATED	ADMINISTRATIVE
07/08/2014	KIRKLAND	INCARCERATED	MEDICAL
02/04/2013	ALLEDALE	INCARCERATED	ADMINISTRATIVE
02/04/2013	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
12/20/2012	ALLEDALE	INCARCERATED	ADMINISTRATIVE
12/19/2012	KIRKLAND	INCARCERATED	MEDICAL
08/02/2012	ALLEDALE	INCARCERATED	ADMINISTRATIVE
08/02/2012	LIEBER	INCARCERATED	GED
12/08/2011	ALLEDALE	INCARCERATED	ADMINISTRATIVE
12/08/2011	LIEBER	INCARCERATED	GED
07/20/2011	ALLEDALE	INCARCERATED	ADMINISTRATIVE
07/19/2011	KIRKLAND	INCARCERATED	MEDICAL
05/17/2011	ALLEDALE	INCARCERATED	ADMINISTRATIVE
05/17/2011	LIEBER	INCARCERATED	GED
11/23/2010	ALLEDALE	INCARCERATED	ADMINISTRATIVE
11/23/2010	KIRKLAND	INCARCERATED	MEDICAL
07/06/2010	ALLEDALE	INCARCERATED	ADMINISTRATIVE
07/06/2010	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
04/28/2010	ALLEDALE	INCARCERATED	ADMINISTRATIVE
04/28/2010	KIRKLAND	INCARCERATED	MEDICAL

Exhibit B-9

SEXUAL PREDATOR REFERRAL FORM

Offender

Name: ROBBIE CARROLL COLLINS

Offender

Number: 138314

Jurisdictional

Agency: SCDC

Age: 52

County: HORRY

Qualifying Offense(s): Guilty Plea: Trial:

Gender: Male

No. of Incarcerations: 2

Criminal Sexual Conduct 2nd, Lewd Act on Child Under 14

Adult 14 years

Parole Eligibility

Max-Out

Sentence:

Date:

Date: 10/27/2015

Juvenile

Parole

SFII

Guidelines:

Release Date:

Date:

The review of this case is based on the offender's records which include, but are not limited to, the following information: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors. Findings are strictly based on the legal criteria set forth in Section 44-48-30 of the Sexually Violent Predator Act, and are not to be interpreted as a clinical assessment.

VOTES TO REFER/NOT REFER TO PROSECUTOR'S REVIEW COMMITTEE:

YES

NO

ABSTAIN

3

2

0

The following Sexual Predator Multi-Disciplinary Team Members participated in the review process:

[Signature] SCDC -- CHAIRPERSON

[Signature] SCDPPS

[Signature] DMH

[Signature] JDG

[Signature] ATTORNEY

MULTIDISCIPLINARY TEAM

The offender's records were assessed by the Multidisciplinary Team on January 22, 2015, and based upon that assessment, we find that:

☒ The offender satisfies the definition of a sexually violent predator and a review by the Prosecutor Review Committee is warranted.

☐ The offender does not satisfy the definition of a sexually violent predator and a review by the Prosecutor Review Committee is not warranted.

Exhibit: B-10

EXHIBIT C

Center for Positive Family Living, Inc.

Dr. Paul S. Gunter, LMFT, LPC

311 Bennett Center Drive, Greer, SC 29650

Phone: 864-968-9687

Fax: 864-968-9449

Dr.gatpositivefamilyliving@gmail.com

September 24, 2018

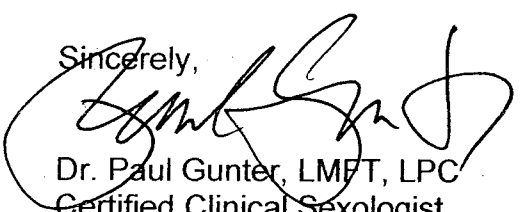
To: Whom It May Concern

From: Dr. Paul Gunter

Re: Robbie Collins

Mr. Collins started attending our Sex Offender Treatment Program 5/1/17 and attended 16 out of 26 classes ending 11/13/17. He has a balance due of \$210.

Sincerely,



Dr. Paul Gunter, LMFT, LPC

Certified Clinical Sexologist

Certified Sex Offender Treatment Provider

Exhibit: C

Monthly Compliance Report

Paul S. Gunter, LMFT, LPC - Center for Positive Family Living, Inc.
311 Bennett Center Drive, Greer, SC 29650
Phone: (864)968-9687

Client's Name: Collins, Robbie

Month: July 2017

Agent/Agency: Dinah Tolliver, P&P - Spartanburg County

Fax: (864) 596-2230

Group Fees

Balance from Previous Month: 150.00

Credit from Previous Month: ()

Total Monthly Fees: 150.00
(\$30 per week x 5 weeks)

Payments:	<u>1-3</u>	<u>(P)</u>	<u>A / S</u>	<u>30.00</u>
	<u>1-10</u>	<u>(P)</u>	<u>A / S</u>	<u>30.00</u>
	<u>1-17</u>	<u>(P)</u>	<u>A / S</u>	<u>40.00</u>
	<u>1-24</u>	<u>(P)</u>	<u>A / S</u>	<u>— 0 —</u>
	<u>1-31</u>	<u>(P)</u>	<u>A / S</u>	<u>80.00</u>

Balance Due: 120.00

Credit on Account: ()

Comments: _____

Assessment Fee (If Required)

Fee Amount: 300.00

Credit from Previous Month: (— 0 —)

Payments: _____

Balance Due: 300.00

ABEL Assessment Completed: _____

DATE

Exhibits: C-1

Monthly Compliance Report

Paul S. Gunter, LMFT, LPC - Center for Positive Family Living, Inc.
311 Bennett Center Drive, Greer, SC 29650
Phone: (864)968-9687

Client's Name: Collins, RobbieMonth: May 2017Agent/Agency: Dinah Tolliver, P&P - Spartanburg CountyFax: (864) 596-2230**Group Fees**

Balance from Previous Month: _____

Credit from Previous Month: (_____)

Total Monthly Fees: 150.00
(\$30 per week x 5 weeks)

Payments:	<u>5-1</u>	(P) A / S	<u>-0-</u>
	<u>5-8</u>	(P) A / S	<u>-0-</u>
	<u>5-15</u>	P / (A) S	<u>-0-</u>
	<u>5-22</u>	(P) A / S	<u>-0-</u>
	<u>5-29</u>	(P) A / S	<u>30.00</u>

Balance Due: 120.00

Credit on Account: (_____)

Comments: 1st week 5-1-17

_____**Assessment Fee (If Required)**Fee Amount: 300.00Credit from Previous Month: (-0-)Payments: _____

_____Balance Due: 300.00

ABEL Assessment Completed: _____

DATE

Exhibits: C-2

Monthly Compliance Report

Paul S. Gunter, LMFT, LPC - Center for Positive Family Living, Inc.
311 Bennett Center Drive, Greer, SC 29650
Phone: (864)968-9687

Client's Name: Collins, Robbie

Month: June 2017

Agent/Agency: Dinah Tolliver, P&P - Spartanburg County

Fax: (864) 596-2230

Group Fees

Balance from Previous Month: 120.00

Credit from Previous Month: ()

Total Monthly Fees: 120.00
(\$30 per week x 4 weeks)

Payments: <u>6-5</u>	P / <u>(A)</u> S	<u>-0-</u>
<u>6-12</u>	<u>(P)</u> / A / S	<u>30.00</u>
<u>6-19</u>	<u>(P)</u> / A / S	<u>30.00</u>
<u>6-26</u>	<u>(P)</u> / A / S	<u>30.00</u>
	P / A / S	

Balance Due: 150.00

Credit on Account: ()

Comments: _____

Assessment Fee (If Required)

Fee Amount: 300.00

Credit from Previous Month: (-0-)

Payments: _____

Balance Due: 300.00

ABEL Assessment Completed: _____

DATE

Exhibits: C-3

CLINICAL AND FORENSIC PSYCHOLOGY ASSOCIATES, P.A.

Amy C. Swan, Psy. D.

Florida License PY5908
Missouri License 2011028125
South Carolina License 1154

Licensed Psychologists

FORENSIC PSYCHOLOGICAL EVALUATION PURSUANT TO THE SOUTH CAROLINA SEXUALLY VIOLENT PREDATOR ACT

DATE OF EVALUATION	DATE OF REPORT
8/6/15	10/19/15

IDENTIFYING DATA:

Name: Robbie C. Collins
Case Number: 2015-CP-26-01841
Date of Birth: 10/24/62
SCDC #: 138314
County: Horry
Evaluator: Amy C. Swan, Psy. D.

If I had an update
evaluation this score
would have
change to 2 or less

STATIC-99R SCORE

3

PCL-R

25

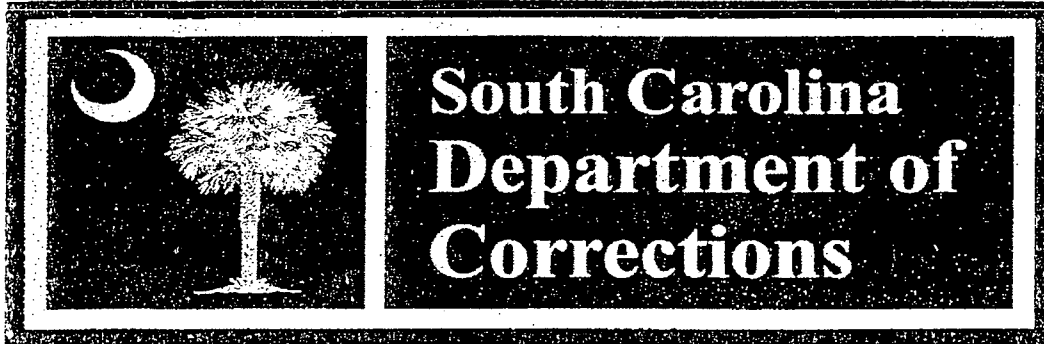
DIAGNOSES			
1.	Pedophilic Disorder, Sexually Attracted to Females, Non-Exclusive Type	302.2	DSM-5
2.	Other Specified Personality Disorder, with Antisocial Features	301.89	DSM-5
INTERVIEW CONDUCTED		MEETS CRITERIA	
YES		YES	

REFERRAL INFORMATION

Robbie Carroll Collins is a 52-year-old Caucasian male who has been convicted of a Sexually Violent Offense and is approaching release from total confinement. A petition was filed by the State of South Carolina alleging that he is a Sexually Violent Predator (SVP) as defined by the Sexually Violent Predator Act, e.g., a "mentally abnormal and extremely dangerous group of sexually violent predators" who require involuntary commitment in a secure facility. A Probable Cause Hearing was held on 3/23/15, and the Horry County Court of Common Pleas issued an order mandating an evaluation of

7-17-2015
P/C Hearing

Exhibit C-4



DIVISION OF BEHAVIORAL/MENTAL HEALTH
&
SUBSTANCE ABUSE SERVICES

THIS CERTIFICATE IS AWARDED TO

ROBBIE COLLINS SCDC 138314

IN RECOGNITION OF SUCCESSFULLY COMPLETING THE SIX MONTHS
OF GROUP THERAPY IN THE

SEX OFFENDER TREATMENT PROGRAM

THIS 24 DAY OF AUGUST, 2015

Sylvia Roberts, LMSW
Sylvia Roberts LMSW
SOTP COORDINATOR
Broad River Correctional Inst.

Dr. Crystal Russell
Dr. Crystal Russell, EdD, LPC/S, LPC NCC
Division Assistant Director of BMHSAS

Exhibit: C-5

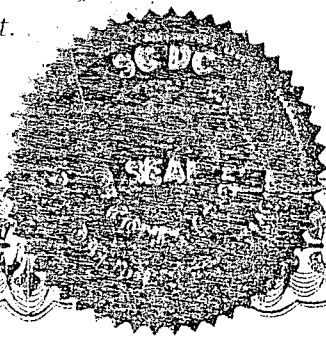


EXHIBIT D

Psychiatric Times

Published on *Psychiatric Times* (<http://www.psychiatrictimes.com>)

[Home](#) > DSM-5 Confirms That Rape Is Crime, Not Mental Disorder

DSM-5 Confirms That Rape Is Crime, Not Mental Disorder

[Blog](#) ^[1] | February 21, 2013 | [On DSM-5](#) ^[2], [DSM-5](#) ^[3], [Forensic Psychiatry](#) ^[4], [Sexual Offenses](#) ^[5]

By [Allen Frances, MD](#) ^[6]

Diagnosing rape as mental disorder is an improper use of psychiatric diagnosis and promotes the abuse of psychiatric commitment to further what would otherwise be an unconstitutional form of preventive detention.

Source:

DSM-5 has considered—and has roundly rejected—two proposed diagnoses that are frequently misused to justify involuntary psychiatric commitment under sexually violent predator (SVP) statutes. Not only were “Coercive Paraphilia” and “Hebephilia” denied status as official diagnoses; they were not even given a face saving place in the usually inviting DSM Appendix. This constitutes a total and unequivocal American Psychiatric Association (APA) rejection of these pseudo-diagnoses and compellingly confirms that they have no credibility in courtroom testimony.

Hopefully, the APA decisions will help clarify and correct a shameful travesty at the difficult interface between psychiatry and the law.

Sex offenders who have completed their prison sentences are now often detained (usually for life) in prison-like psychiatric facilities based on the completely mistaken assumption that their having committed sexual crimes somehow means they are also mentally ill. The action taken by DSM-5 has blown this argument completely out of the water. Diagnosing rape as mental disorder is an improper use of psychiatric diagnosis and promotes the abuse of psychiatric commitment to further what would otherwise be an unconstitutional form of preventive detention.

The proposal to create a mental disorder diagnosis for rapists has been raised and unequivocally rejected 5 times in the past 35 years—in 1976 for DSM-III; in 1986 for DSM-III-R; in the early 1990's for DSM-IV; in 1998 for an APA Task Force report; and now for DSM-5.

These repeated repudiations haven't prevented poorly trained psychologists testifying as alleged experts in SVP cases from inventing the fake diagnosis—“Paraphilia Not Otherwise Specified, Nonconsent”—and using it as an excuse to justify what are in fact unjustifiable psychiatric commitments in SVP cases.

Exhibits: D,

Displaying a surprising ignorance of (and careless indifference to) proper diagnostic practice, these psychologists routinely and rotely misdiagnose mental disorder in rapists who are in fact clearly no more than simple criminals. They repeatedly state as misguided (in) expert testimony that committing rape is by itself an indication of psychiatric illness.

These pseudoexperts are not dissuaded by the facts: that rape as mental disorder has been rejected by all the DSM's and is almost universally opposed by the experts in forensics and in sexual disorders; that there is almost no scientific support for their pariah diagnosis of Paraphilia NOS, nonconsent; and that NOS diagnosis is inherently unreliable and can therefore never be taken seriously as expert forensic testimony.

I have reviewed "expert" reports and testimony in 39 SVP cases. In only 3 of these cases might the rapist's behavior conceivably suggest some sort of unspecified form of paraphilia—and this could not be diagnosed even by me with the degree of reliability required in forensic testimony. All of the other offenders were straight out simple criminals—none of these represented a close judgment call. The hundreds of sloppy reports submitted by the misguided psychologists blithely misdiagnosed "Paraphilia Not Otherwise Specified, Nonconsent" without ever providing any evidence or rationale for their casual equating of criminal behavior with mental disorder.

Fortunately, the Department of Mental Health in California has taken active and effective steps to reform this bad diagnostic practice and to require more careful diagnosis and proper documentation of evidence and rationale. This has resulted in the dropping of weaker cases and a clearer to juries. Overall, more cases are now decided on merit rather than misinformation.

But a great deal more remains to be done to ensure that psychiatric diagnosis is not misused in SVP cases. Some evaluators still cling stubbornly to their idiosyncratic and discredited diagnostic practices. Let's hope that they are weeded out and that other states follow California's lead toward achieving much better quality control over errant evaluators.

I have absolutely no sympathy for rapists and believe they deserve longer sentences and less opportunity for quick parole than many have received—especially in the past. But I do have great concern when fake psychiatric diagnosis and unjustified involuntary commitment are misused to violate anyone's civil rights—even a rapist's.

~~The constitution says that when criminals do their time, they have the right to be released from prison. Making up a fake diagnosis to facilitate otherwise unconstitutional preventive detention is a clear violation of the individual's civil rights and creates a very slippery and dangerous slope for our society. Unjustified psychiatric preventive detention was a convenient tool of political repression in the former Soviet Union and is reportedly also used today to quell economic complaints in China.~~

Protecting the constitutional rights of rapists who have served their sentences is not just a matter of fairness to them—it is necessary to protect the integrity of the judicial system and the rights of all the rest of us.

On another note, DSM-5 has also totally rejected "Hypersexuality" and "Sex Addiction" as diagnostic concepts. They are repudiated as official diagnoses and were given no place in

Exhibits: D-1

the DSM-5 Appendix. These fake diagnoses also have no place in courtroom proceedings.

Source URL: <http://www.psychiatrictimes.com/blogs/dsm-5/dsm-5-confirms-rape-crime-not-mental-disorder>

Links:

- [1] <http://www.psychiatrictimes.com/blog>
- [2] <http://www.psychiatrictimes.com/blogs/dsm-5>
- [3] <http://www.psychiatrictimes.com/dsm-5-0>
- [4] <http://www.psychiatrictimes.com/forensic-psychiatry>
- [5] <http://www.psychiatrictimes.com/sexual-offenses>
- [6] <http://www.psychiatrictimes.com/authors/allen-frances-md>

Exhibits: D-2

The Latest Hypocrisy In SVP Expert Testimony

Rape is crime not mental disorder and must be distinguished from Sexual Sadism

Post published by Allen J Frances M.D. on Jan 26, 2015 in Saving Normal

[SHARE](#)[TWEET](#)[SHARE](#)[EMAIL](#)

Like

0

The United States Constitution does not allow 'preventive detention'- a much abused 18th century prerogative of royal power that was abhorrent to our founding fathers. We are meant to be a country of law, not arbitrary state power. No imprisonment on suspicion that someone might commit a crime and no keeping someone in prison beyond his allotted sentence just because someone thinks he might still be dangerous

Sexually Violent Predator laws in 20 states are an exception. Indefinite preventive detention in a psychiatric facility (really a prison in all but name) is permitted if the individual has committed a violent sexual crime and has a mental disorder that predisposes to its repetition. The US Supreme Court in a narrow 5-4 decision found this to be constitutional, but explicitly only if the perpetrator has a definite mental disorder that would distinguish him from the much more common opportunistic criminal rapist. No mental disorder, no preventive detention.

In an attempt to facilitate preventive detention under SVP commitment statutes, many state evaluators blatantly misused the inherently unreliable Paraphilia Not Otherwise Specified as a qualifying diagnosis in cases that involved no more than typical, opportunistic rape. Until recently, juries bought it- unjustly committing common criminals to inappropriate psychiatric incarcerations.

This is now changing, especially since DSM 5 confirmed once again that rape is not a mental disorder (this is the fourth time DSM has rejected rape in 40 years). Paraphilia NOS is now widely recognized for the fake diagnosis it always was.

This should be the end of a sad epoch of incompetent expert testimony in SVP cases- but it isn't. Undeterred by any respect for proper diagnostic practice, many state evaluators have come up with a new fake diagnosis, intended to convert ineligible common criminality into SVP-ready mental disorder. The same patients who before were routinely mislabeled Paraphilia NOS are now being mislabeled as Sexual Sadists.

Exhibits: D-3

Unlike rape, Sexual Sadism is an official DSM 5 diagnosis and, if properly diagnosed, is a legitimate qualifying mental disorder in SVP cases. Unfortunately, incompetent evaluators are now confusing the very specialized violence of sadism from the nonspecific violence of rape. The diagnosis of Sexual Sadism applies only to a tiny minority of rapists. 2)

Rapists and sadists both are violent toward their victims- but with quite different motivations. The goal of the rapist's violence is to rapidly and thoroughly control the victim to ensure her compliance with the sexual acts. For the vast majority of rapists, violence and control are no more than tools to force a non-consenting person to have sex. By definition, rape is nonconsensual sex that would only occur under conditions of overt or threatened violence.

In contrast, the sadist has a much more specific motivation. His stereotyped (and often diabolical) violence and demeaning control are the main event of the sex act- fulfilling deeply held and "recurrent, intense sexually arousing fantasies and sexual urges". For the sadist, sex would not be nearly so exciting (and might not even be possible at all) if it is not accompanied by violence that elicits the victim's pain, humiliation, and suffering.

Rapists and sadists are both routinely cruel, unempathic, and show lack of concern regarding the impact of their attack on the victim- but again for different reasons. For the sadist, the sexual excitement is enhanced by, or may exclusively reside in, being cruel in a way that elicits pain. For the rapist the pain inflicted is incidental, perhaps indifferent collateral damage, not the goal of the sex act. The rapist and the sadist both lack a conscience to inhibit hurting others, but only the sadist requires their pain as a sexual stimulant.

Rape is always heinous, ugly, violent, and cruel. But the violence and cruelty that are part of all rapes should not be confused with the motivated violence and cruelty of Sexual Sadism that requires victim pain to generate excitement. Rape is a crime, not a mental disorder. Sexual Sadism is both.

If this distinction is not thought through, made carefully, and supported with strong confirmatory evidence, virtually all rapists could conceivably receive a mistaken mental disorder diagnosis of Sexual Sadism and would then be subject to SVP commitment on that fallacious basis. This makes no sense and flies in the face of the Supreme Court rulings, which accepted the constitutionality of SVP statutes only if the rape is the result of a predisposing mental disorder that can be reliably distinguished from common criminality. Most coercive sex is explained not

Exhibits: D-4

by Sexual Sadism and should not be mislabeled as such.

3

The differences between rape and sadism are clear. In rape, the purpose of violence is instrumental- to facilitate the victim's compliance with the sex act. In Sexual Sadism, the violence, cruelty, and gratification in the victim's suffering are all primary- necessary preconditions for sexual arousal and for the fulfillment of the urgent, intense, and recurrent sadistic fantasies of inflicting harm and humiliation.

Of course there will be the occasional rapist who also fills criteria for Sexual Sadism and is suitable for SVP commitment, but this will be a rare finding among rapists and should require extensive supporting evidence. Sexual Sadism should not be used loosely to shoehorn common criminal rapists into a mental disorder category in order to justify a psychiatric preventative detention that would otherwise be unconstitutional.

I have no sympathy for rapists and think they deserve long prison sentences meted out by the criminal justice system. But I have even less sympathy for the misuse of psychiatric testimony in the courtroom, for evaluators who play loose with proper diagnostic practice, and with the misuse of psychiatric incarceration. Railroading people inappropriately into psychiatric hospitals is a slippery slope that can lead to grave violation of human rights and a distortion of our most precious constitutional protections.

Exhibits: D-5



Allen J Frances M.D.
DSM5 in Distress

My Review Of 28 Sexually Violent Predator Cases

Paraphilia NOS is misdiagnosed and misused.

Posted Mar 29, 2012

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During the past two years, I have been asked by public defenders to review 28 SVP cases, mostly in California, but two each in Iowa and Washington, and one each in Illinois and New Hampshire. All had previously been evaluated by two or three psychologists testifying for the prosecution and also by two or three psychologists testifying for the defense. There was the predictable split of opinion. Prosecution psychologists usually made a diagnosis of 'Paraphilia Not Otherwise Specified' and defense psychologists did not (but five prosecution psychologists did change their minds, dropped the diagnosis, and then either did not testify at all or flipped and supported the defense).

Of course, there are inherent and serious limitations in this kind of unsystematic review. The sample is very small, was not selected randomly, and may differ in important respects from the entire population of offenders diagnosed with 'Paraphilia NOS'. Conceivably, public defenders call on me

Exhibits: D-6

During the past two years, I have been asked by public defenders to review 28 SVP cases, mostly in California, but two each in Iowa and Washington, and one in Illinois and New Hampshire. All had previously been evaluated by two or three psychologists testifying for the prosecution and also by two or three psychologists testifying for the defense. There was the predictable split of opinion. Prosecution psychologists usually made a diagnosis of 'Paraphilia Not Otherwise Specified' and defense psychologists did not (but five prosecution psychologists did change their minds, dropped the diagnosis, and then either did not testify at all or flipped and supported the defense).

Of course, there are inherent and serious limitations in this kind of unsystematic review. The sample is very small, was not selected randomly, and may differ in important respects from the entire population of offenders diagnosed with 'Paraphilia NOS'. Conceivably, public defenders call on me only for their easiest cases: where they believe they have the best chance of winning. Equally conceivably, I could be called in as a last resort for their most hopeless cases. The defenders I am seeing routine and representative cases who just happened to be next in line. But I have no way of confirming this and small samples of convenience can always be misleading. An even greater limitation is that I offer only my own unverified and possibly biased observations—others would make different judgments.

Despite these caveats, I think the review exposes serious and systematic problems in how the SVP statutes are currently being implemented, and suggests the obvious next necessary steps toward improving future diagnostic practice. My method was to read the most recent reports of all the evaluators on both sides of each case, supplemented as needed by their earlier reports and by police, parole prison, and hospital records. I did no personal interviews. My job was to assess the accuracy of diagnostic judgments, the quality of the supportive documentation, and of the thoughtfulness of the diagnostic rationale.

Most striking, the diagnosis of Paraphilia NOS was justified in only 2 of the 28 cases. In both instances, the offender's sex life pivoted centrally around the committing of the offense and his ability to experience sexual arousal was predicated on performing the criminal act. Both these offenders spent much time in planning their crimes and stalking victims, maintained extensive pornography collections pertinent to their particular interests, had no other sexual life, and were preoccupied with performing their specific and stereotyped sexual act.

The other 26 cases clearly did not meet DSM IV criteria for Paraphilia NOS. Instead, their sexual offenses had been opportunistic crimes forming part of a pattern of generalized criminal behavior, very often facilitated by substance intoxication.

With remarkable consistency, the state evaluators who incorrectly over-diagnosed Paraphilia NOS provided no convincing evidence (and quite often, no evidence at all) to support their diagnoses. They typically wrote extremely long and detailed reports that were almost uniformly lacking in any meaningful discussion of diagnostic rationale. A 70-page report might contain one short paragraph on diagnosis, asserting that the offender meets the DSM IV diagnosis of Paraphilia NOS based only on the fact that he had committed more than one sex crime. The evaluators routinely confused ordinary criminal recidivism with psychiatric illness and incorrectly diagnosed Paraphilia NOS based on a simple repetition of the criminal acts, as if these by themselves could possibly indicate the presence of mental disorder.

This ignores the compelling fact that rape has been explicitly rejected as grounds for diagnosing mental disorder by DSM III, DSM IIIR, DSM IV, and DSM V and hebephilia has never been a DSM diagnosis. Rape is almost always just a crime and only very rarely is caused by mental disorder. The state evaluators consistently failed to present evidence to confirm their idiosyncratic DSM IV diagnoses and never ruled out the much more frequent correlates of sexual crimes: predator opportunism, substance intoxication, a longstanding pattern of self-serving and unempathic criminal behavior, or anger or disrespect toward women.

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Exhibits: D-8

retraining specifically instruct evaluators that DSM-IV-TR-listed diagnoses must be established by "substantial evidence" as articulated in the case of *People v. Dodd* (2005) 133Cal.App.4th1564. Such instruction is desperately needed precisely because most state appointed evaluators have displayed no inclination or ability to offer any supportive evidence whatever for the key element that would legitimize a Paraphilia NOS diagnosis, i.e. a specific pattern of sexual arousal triggered by the coercion.

ARTICLE CONTINUES AFTER ADVERTISEMENT

Another slide sets out a relevant section of the *Specialty Guidelines for Forensic Psychology*, adopted and published by the American Psychological Association's Council of Representatives, August 3, 2011. This document directs psychologists to maintain integrity by testing plausible rival hypotheses, i.e., the concept of differential diagnosis.

Exhibits: D-9

Again, state evaluators have shown a remarkable indifference to their clear

- 1) A very small proportion of criminal rapists committed under SVP statutes do qualify for a Paraphilia diagnosis.
- 2) But the overwhelming majority of committed rapists do not qualify for a diagnosis of 'Paraphilia NOS.'. This term is currently being misused and wildly over-diagnosed by evaluators who have a fundamental misunderstanding of DSM IV.
- 3) Since most diagnoses of 'Paraphilia NOS' are inaccurate and unreliable, they should be viewed with great skepticism and accepted only when there is convincing affirmative evidence that the criminal sexual behavior is the offender's preferred or obligatory means of sexual excitement. The differential diagnosis should require the ruling out of all the much more common causes: opportunistic sexual exploitation that is part of a criminal lifestyle, substance disinhibition, and anger or revenge.
- 4) The good news is that SVP cases can be won. This proves that the SVP system can work to protect individual civil rights, constitutional authority, and the integrity of involuntary psychiatric commitment.
- 5) The bad news is that much of the diagnostic work done by SVP evaluators is simply wrong and misleading to juries and judges- resulting in SVP decisions that are arbitrary and questionably constitutional.
- 6) The remedial actions to improve SVP diagnosis instituted by the California Department of Mental Health should be copied by other states. Correcting the current diagnostic misunderstandings is crucial both for the legal and the mental health systems, and absolutely necessary if they are to

Exhibits: D-10

EXHIBIT E

Hare PCL-R: 2nd Edition
Robert D. Hare, Ph.D.

Scoring Grid

Name: _____

Client ID: Barker C. Collins

Age: 52 Gender: M F

Rater: Angela Brown

Date: 10/17/15
mm dd yyyy

Ensure that all responses have transferred over to this page. For each item, copy the circled response into the unshaded box in the corresponding row. Add the numbers in each column and write each sum in the Totals row near the bottom of the page. Add the number of omitted items for each column and write the sum in the Number of Omitted Items row (refer to the attached tables for adjusted sums). Refer to attached profiles for T-scores and comparison tables.

Item No	Maybe	Yes	Omit	Facet 1	Facet 2	Facet 3	Facet 4	Factor 1	Factor 2	Total Score
1	0	1	2	X						1
2	0	1	2	X						1
3	0	1	2	X						1
4	0	1	2	X						1
5	0	1	2	X						1
6	0	1	2	X						1
7	0	1	2	X						1
8	0	1	2	X						1
9	0	1	2	X						1
10	0	1	2	X						1
11	0	1	2	X						1
12	0	1	2	X						1
13	0	1	2	X						1
14	0	1	2	X						1
15	0	1	2	X						1
16	0	1	2	X						1
17	0	1	2	X						1
18	0	1	2	X						1
19	0	1	2	X						1
20	0	1	2	X						1
Totals				4	8	7	4	12	11	25
Number of Omitted Items				0	0	0	0	0	0	0
Adjusted Scores				4	8	7	4	12	11	25

Factor 1 = Interpersonal/Affective
Factor 2 = Social Deviance

Facet 1 = Interpersonal
Facet 2 = Affective

Facet 3 = Lifestyle
Facet 4 = Antisocial



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In Canada, 3770 Victoria Park Ave., Toronto, ON M2H 3M6, 1-800-268-6011. Internationally, +1-416-492-2627. Fax, +1-416-492-3343 or 1-888-540-4484.

Exhibit: E

EXHIBIT F

Item # 6 Prior Sentencing Dates

The Basic Principle: This item and the others that relate to criminal history and the measurement of persistence of criminal activity are based on a firm foundation in the behavioural literature. As long ago as 1911 Thorndyke stated that the “the best predictor of future behaviour, is past behaviour”. Andrews & Bonta (2003) state that having a criminal history is one of the “Big Four” predictors of future criminal behaviour. Prior Sentencing Dates is a convenient method of coding the length of the criminal record.

Information Required to Score this Item: To score this item you must have access to an official criminal record as compiled by police, court, or correctional authorities. Self-report of criminal convictions may not be used to score this item except in specific rare situations, please see sub-section “Self-report and the STATIC-99 in the Introduction section.

The Basic Rule: If the offender’s criminal record indicates four or more separate sentencing dates prior to the Index Offence, the offender is scored a “1” on this item. If the offender’s criminal record indicates three or fewer separate sentencing dates prior to the Index Offence, the offender scores a “0” on this item.

Count the number of distinct occasions on which the offender was sentenced for criminal offences. The number of charges/convictions does not matter, only the number of sentencing dates. Court appearances that resulted in complete acquittal are not counted, nor are convictions overturned over on appeal. The Index sentencing date is not included when counting up the sentencing dates.

If the offender is on some form of conditional release (parole/probation/bail etc.) “technical” violations do not count as new sentencing dates. For example, if an offender had a condition prohibiting drinking alcohol, a breach for this would not be counted as a new sentencing date. To be counted as a new sentencing date, the breach of conditions would have to be a new offence for which the offender could be charged if he were not already under criminal justice sanction.

Institutional rule violations do not count, even when the offence was for behaviour that could have resulted in a legal sanction if the offender had not already been incarcerated.

Count:

- Juvenile offences count (if you know about them – please see section on the use of self-report in the Introduction)
- Where applicable “Probation before judgment” counts as a conviction and a sentencing date
- Where applicable “Consent Decree” counts as a conviction and a sentencing date
- Suspended Sentences count as a sentencing date

Do Not Count:

- Stayed offences do not count as sentencing dates
- Institutional Disciplinary Actions/Reports do not count as sentencing dates

The offences must be of a minimum level of seriousness. The offences need not result in a serious sanction (the offender could have been fined), but the offence must be serious enough to permit a sentence of community supervision or custody/incarceration (as a juvenile or adult). Driving offences generally do not count, unless they are associated with serious penalties, such as driving while intoxicated or reckless driving causing death or injury.

Generally, most offences that would be recorded on an official criminal history would count – but the statute, as written in the jurisdiction where the offence took place, must allow for the imposition of a custodial sentence or a period of community supervision (adult or juvenile). Only truly trivial offences

Exhibit: F

Items #8, #9, & # 10 – The Three Victim Questions

The following three items concern victim characteristics: Unrelated Victims, Stranger Victims, and Male Victims. For these three items the scoring is based on all available credible information, including self-report, victim accounts, and collateral contacts. The items concerning victim characteristics, however, only apply to sex offences in which the victims were children or non-consenting adults (Category “A” sex offences). Do not score victim information from non-sexual offences or from sex offences related to prostitution/pandering, possession of child pornography, and public sex with consenting adults (Category “B” sex offences). Do not score victim information on sexual offences against animals (Bestiality and similar charges).

In addition to all of the “everyday” sexual offences (Sexual Assault, Rape, Invitation to Sexual Touching, Buggery) you also score victim information on the following charges:

- Illegal use of a Minor in Nudity-oriented Material/Performance
- Importuning (Soliciting for Immoral Purposes)
- Indecent Exposure (When a specific victim has been identified)
- Sexually Harassing Telephone Calls
- Voyeurism (When a specific victim has been identified)

You do not score Victim Information on the following charges:

- Compelling Acceptance of Objectionable Material
- Deception to Obtain Matter Harmful to Juveniles
- Disseminating/Displaying Matter Harmful to Juveniles
- Offences against animals
- Pandering Obscenity
- Pandering Obscenity involving a Minor
- Pandering Sexually-Oriented Material involving a Minor
- Prostitution related offences

“Accidental Victims”

Occasionally there are “Accidental Victims” to a sexual offence. A recent example of this occurred when an offender was raping a woman in her living room. The noise awoke the victim’s four-year-old son. The son wandered into the living room and observed the rape in progress. The victim instructed her son to return to his bedroom and he complied at once. The perpetrator was subsequently charged and convicted of “Lewd and Lascivious Act on a Minor” in addition to the rape. In court the offender pleaded to both charges. In this case, the four-year-old boy would not count as a victim as there was no intention to commit a sexual offence against him. He would not count in any of the three victim items regardless of the conviction in court.

A common example of an accidental victim occurs when a person in the course of his/her daily life or profession happens across a sexual offence. Examples include police officers, park wardens, janitors, and floor walkers who observe a sexual offence in the course of their duties. If a male officer were to observe an exhibitionist exposing himself to a female, the offender would not be given the point for “Male Victim” as there was no intention to expose before the male officer. The evaluator would not give the offender a point for “male victim” unless the offender specifically chose a male officer to expose himself to. In the same vein, a floor walker or janitor who observes an offender masturbating while looking at a customer in a store would not be counted as a “stranger victim” or an “unrelated victim”. In short there has to be some intention to offend against that person for that person to be a victim. Merely

Exhibit: F1

Item # 8 - Any Unrelated Victims?

The Basic Principle: Research indicates that offenders who offend only against family members recidivate at a lower rate compared to those who have victims outside of their immediate family (Harris & Hanson, Unpublished manuscript). Having victims outside the immediate family is empirically related to a corresponding increase in risk.

Information Required to Score this Item: To score this item use all available credible information. "Credible Information" is defined in the previous section "Items #8, #9, & #10 -The Three Victim Questions".

The Basic Rule: If the offender has victims of sexual offences outside their immediate family, score the offender a "1" on this item. If the offender's victims of sexual offences are all within the immediate family score the offender a "0" on this item.

A related victim is one where the relationship is sufficiently close that marriage would normally be prohibited, such as parent, brother, sister, uncle, grandparent, stepbrother, and stepsister. Spouses (married and common-law) are also considered related. When considering whether step-relations are related or not, consider the nature and the length of the pre-existing relationship between the offender and the victim before the offending started. Step-relationships lasting less than two years would be considered unrelated (e.g., step-cousins, stepchildren). Adult stepchildren would be considered related if they had lived for two years in a child-parent relationship with the offender.

Time and Jurisdiction Concerns

A difficulty in scoring this item is that the law concerning who you can marry is different across jurisdictions and across time periods within jurisdictions. For example, prior to 1998, in Ontario, there were 17 relations a man could not marry, including such oddities as "nephew's wife" and "wife's grandmother". In 1998 the law changed and there are now only 5 categories of people that you cannot marry in Ontario: grandmother, mother, daughter, sister, and granddaughter (full, half, and adopted). Hence, if a man assaulted his niece in 1997 he would not have an unrelated victim but if he committed the same crime in 1998 he would technically be assaulting an unrelated victim. We doubt very much the change in law would affect the man's choice of victim and his resulting risk of re-offence. As a result the following rules have been adopted.

People who are seen as related for the purposes of scoring the STATIC-99

1. Legally married spouses
2. Any live-in lovers of over two years duration. (Girlfriends/Boyfriends become related once they have lived with the offender as a lover for two years)
3. Anyone too closely related to marry (by jurisdiction of residence of the perpetrator)
4. The following relations whether or not marriage is permitted in the jurisdiction of residence of the perpetrator:
 - Aunt
 - Brother's wife
 - Common-law wife/Ex common-law wife (lived together for 2 years)
 - Daughter
 - Father's wife/step-mother
 - First cousins
 - Granddaughter
 - Grandfather
 - Grandfather's wife

Exhibit F2

- Grandmother
- Grandson's wife
- Mother
- Niece/Nephew
- Sister
- Son's wife
- Stepdaughter/Stepson (Must have more than two years living together before abuse begins)
- Wife and Ex-wife
- Wife's daughter/step-daughter
- Wife's granddaughter
- Wife's grandmother
- Wife's mother

The relationships can be full, half, adopted, or common-law (two years living in these family relationships). The mirror relationships of the opposite gender would also count as related (e.g., brother, sons, nephews, granddaughter's husband).

People who are seen as unrelated for the purposes of scoring the STATIC-99

- Any step-relations where the relationship lasted less than two years
- Daughter of live-in girlfriend/Son of live-in girlfriend (less than two years living together before abuse begins)
- Nephew's wife
- Second cousins
- Wife's aunt

Decisions about borderline cases (e.g., brother's wife) should be guided by a consideration of the psychological relationship existing prior to the sexual assault. If an offender has been living with the victim in a family/paternal/fraternal role for two years prior to the onset of abuse, the victim and the offender would be considered related.

Becoming "Unrelated"

If an offender who was given up for adoption (removed etc.) at birth (Mother and child having no contact since birth or shortly after) and the Mother (Sister, Brother etc.) is a complete stranger that the offender would not recognize (facial recognition) as their family, these biological family members could count as Unrelated Victims. This would only happen if the offender did not know they were offending against a family member.

Exhibit: F3

Item # 9 - Any Stranger Victims?

The Basic Principle: Research shows that having a stranger victim is related to sexual recidivism. See Hanson and Bussière (1998), Table 1 – Item “Victim Stranger (versus acquaintance)”.

Information Required to Score this Item: Use all credible information to score this item. “Credible Information” is defined in the section “Items #8, #9, & #10 - The Three Victim Questions”.

The Basic Rule: If the offender has victims of sexual offences who were strangers at the time of the offence, score the offender a “1” on this item. If the offender’s victims of sexual offences were all known to the offender for at least 24 hours prior to the offence, score the offender a “0” on this item. If the offender has a “stranger” victim, Item #8, “Any Unrelated Victims”, is generally scored as well.

A victim is considered a stranger if the victim did not know the offender 24 hours before the offence. Victims contacted over the Internet are not normally considered strangers unless a meeting was planned for a time less than 24 hours after initial communication.

For Stranger victims, the offender can either not know the victim or it can be the victim not knowing the offender. In the first case, where the offender does not know the victim, (the most common case), the offender chooses someone who they are relatively sure will not be able to identify them (or they just do not care) and offends against a stranger. However, there have been examples where the offender “should” have known the victim but just did not recognize them. This occurred in one case where the perpetrator and the victim had gone to school together but the perpetrator did not recognize the victim as someone they knew. In cases like this, the victim would still be a stranger victim as the offender’s intention was to attack a stranger.

The criteria for being a stranger are very high. Even a slight degree of knowing is enough for a victim not to be a stranger. If the victim knows the offender at all for more than 24 hours, the victim is not a stranger. For example, if the victim was a convenience store clerk and they recognized the perpetrator as someone who had been in on several occasions to buy cigarettes, the victim would no longer be a stranger victim. If a child victim can say they recognize the offender from around the neighborhood and the perpetrator has said “Hi” to them on occasion, the child is no longer a stranger victim. The evaluator must determine whether the victim “knew” the offender twenty-four hours (24) before the assault took place. The criteria for “know/knew” is quite low but does involve some level of interaction. They need not know each other’s names or addresses. However, simply knowing of someone but never having interacted with them would not be enough for the victim to count as “known”.

The Reverse Case

In cases of “stalking” or stalking-like behaviours the offender may know a great deal about the victim and their habits. However, if the victim does not know the offender when they attack this still qualifies as a stranger victim.

The “24 hour” rule also works in reverse – there have been cases where a performer assaulted a fan the first time they met. In this case, the victim (the fan) had “known of” the performer for years, but the performer (the perpetrator) had not known the fan for 24 hours. Hence, in cases such as this, the victim would count as a stranger because the perpetrator had not known the victim for 24 hours prior to the offence.

Internet, E-mail, and Telephone

Sometimes offenders attempt to access or lure victims over the Internet. This is a special case and the threshold for not being a stranger victim is quite low. If the offender and the victim have communicated over the Internet (e-mail, or telephone) for more than twenty-four hours (24 hours) before the initial face-

Exhibit: F4

STATIC-99R Coding Form

Offender's Name: Robbie C. Collins
Date of completion: 10/17/15

ID #: 138324
Index Offense: 2004-GS-26-4013

#	Risk Factor	Data Element	Codes
1	Young	Birthdate 10/24/62 = 52 years old	Aged 18 to 34.9 1 Aged 35 to 39.9 0 Aged 40 to 59.9 -1 Aged 60 or older -3
2	Ever lived with lover for at least two years	Yes—7 years and 4 years	Yes 0 No 1
3	Index non-sexual violence – any convictions	No	No 0 Yes 1
4	Prior non-sexual violence – any convictions	No	No 0 Yes 1
5	Prior sex offenses	Case Number: 86-0449 1 charge 1 conviction	Charges Convictions None None 0 1-2 1 1 3-5 2-3 2 6+ 4+ 3
6	Prior Sentencing dates (excluding index)	which charge 96 17 to 12 1/23/81, 9/12/86, 12/27/02, 9/19/03 DUI DUI Public disorderly conduct	3 or less 0 4 or more 1
7	Any convictions for non-contact sex offenses	No yes date are wrong and none expand on the dates	No 0 Yes 1
8	Any unrelated victim	Elizabeth, Nichole, Melissa	No 0 Yes 1
9	Any stranger victim	Yes	No 0 Yes 1
10	Any male victim	No	No 0 Yes 1
Total Score			3

Label for Risk Category	Score
Low	-3, -2, -1, 0, 1
Moderate-Low	2, 3
Moderate-High	4, 5
High	6+

Translating Static 99 Scores Into Risk Categories

Score Label for Risk categories

0, 1 Low
2, 3 Moderate-Low
4, 5 Moderate-High
6 plus High

Exhibit: F-5

Scoring the STATIC-99 & Computing the Risk Estimates

Using the STATIC-99 Coding Form (Appendix 5) sum all individual item scores for a total risk score based upon the ten items. This total score can range from "0" to "12".

Scores of 6 and greater are all considered high risk and treated alike.

Once you have computed the total raw score refer to the table titled STATIC-99 Recidivism Percentages by Risk Level (Appendix 6).

Here you will find recidivism risk estimates for both sexual and violent recidivism over 5, 10, and 15-year projections. In the left-most column find the offender's raw STATIC-99 risk score. Remember that scores of 6 and above are read off the "6" line, high risk.

For example, if an offender scored a "4" on the STATIC-99 we would read across the table and find that this estimate is based upon a sample size of 190 offenders which comprised 18% of the original sample. Reading further, an offender with a score of "4" on the STATIC-99 is estimated as having a 26% chance of sexual reconviction in the first 5 years of liberty, a 31% chance of sexual reconviction over 10 years of freedom, and a 36% chance of sexual reconviction over 15 years in the community.

For violent recidivism we would estimate that an offender that scores a "4" on the STATIC-99 would have a 36% chance of reconviction for a violent offence over 5 years, a 44% chance of reconviction for a violent offence over 10 years, and a 52% chance of reconviction for a violent offence over a 15 year period. It is important to remember that sexual recidivism is included in the estimates of violent recidivism. You **do not** add these two estimates together to create an estimate of violent and sexual recidivism. The estimates of violent recidivism include incidents of sexual recidivism.

STATIC-99 risk scores may also be communicated as nominal risk categories using the following guidelines. Raw STATIC-99 scores of "0" and "1" should be reported as "Low Risk", scores of "2" and "3" reported as "Moderate-Low" risk, scores of "4" and "5" reported as "Moderate-High" risk, and scores of "6" and above as "High Risk".

Having determined the estimated risk of sexual and violent recidivism we suggest that you review Appendix seven (7) which is a suggested template for communicating STATIC-99 risk information in a report format.

Exhibit: F6

Appendix Seven

Suggested Report Paragraphs for Communicating STATIC-99-based Risk Information

The STATIC-99 is an instrument designed to assist in the prediction of sexual and violent recidivism for sexual offenders. This risk assessment instrument was developed by Hanson and Thornton (1999) based on follow-up studies from Canada and the United Kingdom with a total sample size of 1,301 sexual offenders. The STATIC-99 consists of 10 items and produces estimates of future risk based upon the number of risk factors present in any one individual. The risk factors included in the risk assessment instrument are the presence of prior sexual offences, having committed a current non-sexual violent offence, having a history of non-sexual violence, the number of previous sentencing dates, age less than 25 years old, having male victims, having never lived with a lover for two continuous years, having a history of non-contact sex offences, having unrelated victims, and having stranger victims.

The recidivism estimates provided by the STATIC-99 are group estimates based upon reconvictions and were derived from groups of individuals with these characteristics. As such, these estimates do not directly correspond to the recidivism risk of an individual offender. The offender's risk may be higher or lower than the probabilities estimated in the STATIC-99 depending on other risk factors not measured by this instrument. This instrument should not be used with Young Offenders (those less than 18 years of age) or women.

Mr. X scored a ?? on this risk assessment instrument. Individuals with these characteristics, on average, sexually reoffend at ??% over five years and at ??% over ten years. The rate for any violent recidivism (including sexual) for individuals with these characteristics is, on average, ??% over five years and ??% over ten years. Based upon the STATIC-99 score, this places Mr. X in the Low, [score of 0 or 1] (between the 1st and the 23rd percentile); Moderate-Low, [score of 2 or 3] (between the 24th and the 61st percentile); Moderate-High, [score of 4 or 5] (between the 62nd and the 88th percentile); High, [score of 6 plus] (in the top 12%) risk category relative to other adult male sex offenders.

Based on a review of other risk factors in this case I believe that this STATIC-99 score (Over/Under/Fairly) represents Mr. X's risk at this time. The other risk factors considered that lead me to this conclusion were the following: {Stable Variables: Intimacy Deficits, Social Influences, Attitudes Supportive of Sexual Assault, Sexual Self-Regulation, and General Self-Regulation; Acute Variables: Substance Abuse, Negative Mood, Anger/Hostility, Opportunities for Victim Access - Taken from the SONAR*}, (Hanson & Harris, 2001). Both the STATIC-99 and the SONAR 2000 are available from the Solicitor General Canada's Website www.sgc.gc.ca.

* Note: This list is not intended to be definitive. Evaluators may want to include other static or dynamic variables in their evaluations.

Hanson, R. K., & Harris, A. J. R. (2001). A structured approach to evaluating change among sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 13(2), 105-122.

[Evaluator – these paragraphs are available electronically by e-mailing Andrew Harris, harris@sgc.gc.ca and requesting the electronic file – Standard STATIC-99 Paragraphs]

Exhibit: F7 71

Static =
99 R

Second, the government's experts, in attempting to assess the likelihood that respondent might reoffend sexually, relied heavily on so-called "actuarial instruments," which purport to predict recidivism rates based on historical data of sex offenders who have been tracked in the past. Dr. Gutierrez used the STATIC-99R test.^{*fn9} Dr. Davis used the STATIC-99R, the STATIC-2002R and the Minnesota Sex Offender Screening Tool-Revised (MnSOST-R) tests.^{*fn10} The court rejects the use of these "instruments" as a means of assessing the degree to which, if at all, that respondent will have serious difficulty in refraining from child molestation if released. Dr. Davis conceded that actuarial instruments are only "moderate predictors of sexual reoffense." Pet.'s Ex. 7, p. 49. Dr. Singer testified they are "mediocre at best," and in his report he indicated that due to their low predictive value such instruments should not be used in an effort to predict the dangerousness in an individual case. See Pet.'s Ex. 14, pp. 12-13 ("The use of actuarial instruments under these conditions can be likened to a cardiologist applying a life insurance actuarial table to make a diagnosis of cardiac disease."). The risk assessments offered by Drs. Gutierrez and Davis are particularly unreliable in the present case because they both assumed that respondent is a pedophile with numerous "hands-on" victims, whereas the court has rejected both of these premises. The court rejects the conclusion of these experts that respondent would have serious difficulty in refraining from child molestation if released.

The court credits and accepts the conclusions of Drs. Singer and Plaud that respondent is not sexually dangerous and that his risk of sexual reoffense is low. See Pet.'s Ex. 14, p. 17; Pet.'s Ex. 10, pp. 3, 13-14. The court specifically adopts Dr. Singer's conclusion that respondent "does not have a mental disorder that predisposes him to sexually reoffend, let alone causally links him to future sex offending behavior that he has substantial difficulty controlling of the severity to meet the Adam Walsh Act standards." Pet.'s Ex. 14, p. 17. In this context it is important to note that respondent has no documented history of ever having committed a "hands-on" sexual offense.

Conclusion

For these reasons, the court finds and concludes that the government has failed to prove by clear and convincing evidence that respondent "has engaged or attempted to engage in sexually violent conduct or child molestation." The court also finds and concludes that the government proved by clear and convincing evidence that respondent has a serious mental illness, abnormality, or disorder -- namely, antisocial personality disorder. Finally, the court finds and concludes that the government failed to prove by clear and convincing evidence that, as a result of his antisocial personality disorder, respondent would have serious difficulty in refraining from sexually violent conduct or child molestation if released. The government has therefore failed to prove that respondent is a sexually dangerous person under 18 U.S.C. § 4248.

BERNARD A. FRIEDMAN SENIOR UNITED STATES DISTRICT JUDGE SITTING BY SPECIAL DESIGNATION

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See... United States of America v. Markis Revland 4th Cir. of N.C.
2011 U.S. Dist. Lexis 147944

Exhibit: F-8

EXHIBIT G

A. Type of Offense: Purchase / Possess / Control Crack Cocaine
Willful Obstruction of Law Enforcement Officers
B. Date of Offense: May 24, 2002
C. Disposition: Dismissed
D. Brief Facts: Unknown

A. Type of Offense: Criminal Interference with Government Property (1)
Theft by Shoplifting (2)
Willful Obstruction of Law Enforcement Officers (3)
Theft by Taking (4)
Escape (5)
B. Date of Offense: 09/17/2002
C. Disposition: Charge 1 and 2 – *Nolle Prossed*
Charge 3 and 4 – Dismissed
Charge 5 – *Nolle-Prossed*

DISCIPLINARY INFRACTIONS WHILE IN SCDC (REMOVED):

A. Treatment Program: C-STAR
B. Treatment Type: Phase 1
C. Dates: 03/29/1988 – 08/02/1988
D. Status: Good Participation

This sheet came
out of Mr. Morrow's,
Petition Pursuant To
Sexually Violent Predator
Act.

GENERAL NOTES:

Risk Factors common to cases of this nature, existing here include: (1) Length of sexual offending history one to six years, (2) force of threat of force, (3) two or more age groups victimized, (4) victims ages 13 to 15, (5) one or more "major" discipline reports while incarcerated; (6) more than one victim, And (7) victim age 11 or younger. ↗

one
minor
discipline
(1987)
Never a
major

12. Sufficient evidence exists or will exist to determine that Respondent suffers from a mental abnormality or personality disorder which makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, and that the Respondent has serious difficulty in controlling his behavior, or sexual desire impulses.

a. In support of the State's allegations that the Respondent has a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, the State, in addition to any other evidence which Petitioner may present to the Court hereafter, submits the following for consideration:

i. According to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, published by the American Psychiatric

15:57:44 Thursday, January 22, 2015

DISI100D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

01/22/15
WHITEAU

SCDC ID: 00138314

DISPLAY INMATE OFFENSE HISTORY

COLLINS, ROBBIE CARROLL

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV Y

OFFENSE
CASE# DESCRIPTION
_ 00001 ABUSE OF PRIVILEGES
END OF LIST

TYPE	OFFENSE	HEARING	NET GT	DHO	OFF
ACTION	DATE	DATE	LOST	DECISION	LVL
MINOR DI	05/15/87	05/28/87	00000	CONVICTED	5

↑ ↗

At that time inmates could
stay in the day room and
watch T.V. until 11:30 pm on
weekends, but I stayed longer
than I should have.

RG

PAGE 0001

SELECT A RECORD AND PRESS <ENTER> TO DISPLAY OR <PF04> TO MODIFY

PF4-MODIFY PF6-DISMISSED/NOT GUILTY

PF11-QUIT PF10-MAIN MENU

Exhibits: G-1

This information came out of
Mr. Morrow's Civil Action Cover-
sheet (Petition Pursuant To
Sexually Violent Predator Act)

PRIOR SEXUALLY VIOLENT CONVICTIONS (EXHIBIT G):

A. Type of Conviction: Criminal Sexual Conduct in the Second Degree
B. Date of Conviction: December 1, 1986
C. Trial or Plea: Plea (Complete wrong---)
D. Sentenced Received: 14 years
E. Original Charge: Criminal Sexual Conduct in the Second Degree
F. Brief Facts:

Victim 2: 4 year old female
Victim 3: 6 year old female
Victim 4: 9 year old female
Victim 5: Age unknown female

Due to the age of the sexual assault, the only information available is an indictment sheet dated December 1, 1986. It States Defendant "unlawfully, willfully and lewdly committed or attempted to commit a lewd or lascivious act or acts upon or with the body, or a part or member of the body, of children under the age of 14 with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the subject." He received a 10-year sentence.

The Sexually Violent Predator Act was not in place at the time of this incarceration. Defendant was paroled on November 15, 1990 and completed his parole on December 1, 1992.

PRIOR / OTHER OFFENSES (OTHER THAN SEXUAL) (If Known):

A. Type of Conviction: Driving Under the Influence First Offense
B. Date of Conviction: January 23, 1981
C. Sentence Received: Convicted \$108.00
D. Brief Facts: Unknown

(Only Two
DUI's on Record,
Not four like
was told at SVP
trial)

A. Type of Conviction: Leaving the Scene of Accident
B. Date of Conviction: January 23, 1981
C. Sentence Received: Unknown
D. Brief Facts: Unknown

A. Type of Conviction: Driving Under the Influence

B. Date of Conviction: March 14, 1983
C. Sentence Received: 1 year suspended to 3 months confinement; fine
D. Brief Facts: Unknown

A. Type of Conviction: Resisting Arrest (Charge 1)
ABHAN (Charge 2)
B. Date of Conviction: Unknown
C. Sentence Received: Unknown
D. Brief Facts: Unknown

A. Type of Conviction: Violation of Habitual Traffic Offender
B. Date of Conviction: May 14, 1986
C. Sentence Received: 2 years suspended to 2 years probaton
D. Brief Facts: Unknown

A. Type of Conviction: Driving without a license (Charge 1)
Open Container (Charge 2)
Driving Under the Influence (Charge 3)
B. Date of Conviction: September 12, 1996
C. Sentence Received: \$376 Fine
D. Brief Facts: Unknown

A. Type of Conviction: Public Disorderly Conduct
B. Date of Conviction: December 17, 2002
C. Sentence Received: 10 days suspended to \$237 fine
D. Brief Facts: Unknown

GEORGIA ARRESTS

A. Type of Offense: Obstruction of Police / Public Administration
B. Date of Offense: March 9, 1992
C. Disposition: Dismissed
D. Brief Facts: Unknown

This information came out of
Mr. Morrow's Civil Action Cover-
sheet (Petition Pursuant To
Sexually Violent Predator Act)

PRIOR SEXUALLY VIOLENT CONVICTIONS (EXHIBIT G):

A. Type of Conviction: Criminal Sexual Conduct in the Second Degree
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C. Trial or Plea: Plea (Complete wrong---)
D. Sentenced Received: 14 years
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F. Brief Facts:

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(Only Two
DUI'S on Record,
Not four like
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trial)

A. Type of Conviction: Leaving the Scene of Accident
B. Date of Conviction: January 23, 1981
C. Sentence Received: Unknown
D. Brief Facts: Unknown

A. Type of Conviction: Driving Under the Influence

EXHIBIT H

CRITERIA FOR FUTURE DANGEROUSNESS

IN LINAHAN I, THE SUPREME COURT HELD, TRIAL COURTS' "MUST" CONSIDER THE FOLLOWING FACTORS, IF SUCH EVIDENCE IS PRESENTED WHEN EVALUATING WHETHER A PERSON IS "DANGEROUS TO THE PUBLIC":

- (A) THE PERSONS' RELEVANT DEMOGRAPHIC CHARACTERISTICS (E.G., AGE, EDUCATION, ETC. ...)
- (B) THE PERSONS' HISTORY OF VIOLENT BEHAVIOR (PAYING PARTICULAR ATTENTION TO RECENTLY, (RELENCY), SEVERITY, AND FREQUENCY OF VIOLENT ACTS)
- (C) THE BASE RATE STATISTICS FOR VIOLENT BEHAVIOR AMONG INDIVIDUALS OF THE PERSONS' BACKGROUND (E.G., DATA SHOWING THE RATE AT WHICH RAPISTS RECIDIVATE, THE CORRELATION BETWEEN AGE AND CRIMINAL SEXUAL ACTIVITY, ETC. ...)
- (D) THE SOURCES OF STRESS IN THE ENVIRONMENT (COGNITIVE AND AFFECTIVE FACTORS, WHICH INDICATE THAT THE PERSON MAY BE PREDISPOSED TO COPE WITH THE STRESS IN A VIOLENT OR NON-VIOLENT MANNER,)
- (E) THE SIMILARITY OF THE PRESENT OR FUTURE CONTEXTS IN WHICH INDICATE THAT USED VIOLENCE IN THE PAST, AND
- (F) THE PERSONS' RECORD WITH RESPECT IN SEX THERAPY PROGRAMS.

LINAHAN I, 518 N.W.2d AT 614, THESE FACTORS APPLY EQUALLY TO DETERMINING THE PROBABILITY THAT AN INDIVIDUAL WILL ENGAGE IN HARMFUL SEXUAL CONDUCT FOR PURPOSE OF THE SEXUALLY DANGEROUS PERSON STATUTE.

CASES:

IN RE CIVIL COMMITMENT OF STONE, 711 N.W.2d 831 (MINN. CT. APP. 2006),

HUDSON V. STATE 825 SO. 2d 460 (FLA. DIST. CT. 1ST DIST. 2002),

MURRELL V. STATE 215 S.W.2d 96 (MO. 2007),

Exhibit H

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Brian M. Gibbons, Circuit Court Judge

IN THE MATTER OF THE CARE AND TREATMENT OF
ROBBIE CARROLL COLLINS,

APPELLANT

RECEIVED

OCT 26 2018

CERTIFICATE OF SERVICE SC Court of Appeals

The undersigned hereby certifies that a true copy of the PRO SE Brief of Appellant and Designation of Matter in the above referenced case has been served upon Christopher A. Morrow, Assistant Attorney General, at the Office of the Attorney General Post Office Box 11549 Columbia, South Carolina 29211; and a copy of the Pro Se Brief of Appellant and Designation of Matter have been served on Jenny Abbott Kitchings, Clerk, Post Office Box 11629 Columbia, South Carolina 29211, this 18th day of October, 2018.

Robbie Carroll Collins

Robbie Carroll Collins

Pro Se, Appellant

Correct Care

4546 Broad River Road

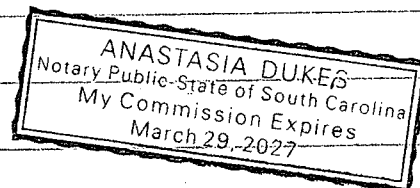
Columbia, SC 29210

Subscribed and Sworn to before me
this 18th day of October, 2018

Anastasia Duke

Notary Public for South Carolina

My Commission Expires: 3-29-2029



The South Carolina Court of Appeals

Robbie Carroll Collins
Pro Se, Brief

Correct Care, 6134
4546 Broad River Road
Columbia, SC 29210

October 18th, 2018

Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, SC 29611

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OCT 26 2018

SC Court of Appeals

Re: In the Matter of Robbie Carroll Collins
Appellate Case No: 2017-002287
Trial Court Case No: 2017CP2603015
Dear Madam Clerk:

I am in receipt of your August 24, 2018 forty-five (45) days of notice for my Pro Se Brief that I am filing with you today.

I am addressing any and all issues I believe the Court should consider in this appeal. Please submit to the Court for its consideration.

Respectfully Submitted,

Robbie Carroll Collins

cc: Alan McCroy Wilson, Esquire

Jenny Abbott Kitchings, Clerk

File

Robbie Carroll Collins, 6134
Correct Care
4546 Broad River Road
Columbia, S.C. 29210

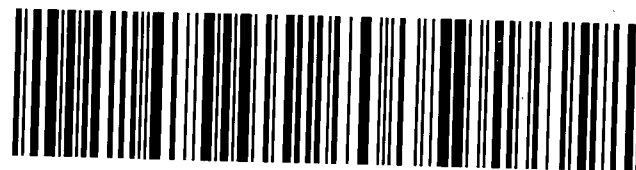
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SC Court of Appeals

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