

**THE STATE OF SOUTH CAROLINA**  
**In the Court of Appeals**

**RECEIVED**  
JAN 15 2015  
**SC Court of Appeals**

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**APPEAL FROM Horry COUNTY**  
**Clifton B. Newman, Circuit Court Judge**

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**Appellate Case No: 2014-000235**

**IN THE MATTER OF THE CARE AND TREATMENT OF KEVIN NIXON,**  
**APPELLANT**

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**INITIAL BRIEF OF APPELLANT, KEVIN NIXON**

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Attorney for Appellant  
Kevin Nixon

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS.....</b>	<b>i</b>
<b>TABLE OF AUTHORITIES.....</b>	<b>1</b>
<b>STATEMENT OF THE CASE.....</b>	<b>2</b>
<b>ISSUE OF LAW.....</b>	<b>3</b>
<b>ARGUMENT/ANALYSIS.....</b>	<b>4</b>
<b>CONCLUSION.....</b>	<b>5</b>

## TABLE OF AUTHORITIES

### Cases:

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

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

## STATEMENT OF THE CASE

Kevin Nixon (hereinafter referred to as Appellant) is a patient of the South Carolina Department of Mental Health (SCDMH) and housed in their Sexually Violent Predator (SVP) Program. On October 23, 2007 the Appellant was committed, after adjudication, to the custody of SCDMH and their SVP Program. On January 27, 2014 a review hearing in the Appellant's case was held before the Honorable Clifton B. Newman. The Appellant was granted a Post Commitment Trial based on the findings of the Annual Review Hearing in this matter. At the conclusion of the Post Commitment Trial the Appellant was found by a jury to still be a danger and his commitment to the State was continued until such time as the Appellant is re-evaluated by SCDMH.

**ISSUES OF LAW**

- I. DID THE TRIAL COURT ERR WHEN IT DID NOT GRANT THE APPELLANT RELEASE FROM THE CUSTODY OF THE STATE AND SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH?**

## ARGUMENT

APPELLANT IS ELIGIBLE FOR RE-EVALUATION IN THIS MATTER.

The Appellant was last evaluated in this matter by the staff of SCDMH on November 5, 2013 and is therefore due to be evaluated again to determine his eligibility for release from the SVP Program within SCDMH.

## ANALYSIS

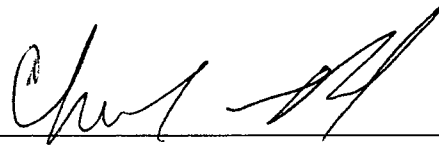
Counsel in this matter has conducted a full review of the record and has considered the facts and legal issues in the case.

Based upon the above analysis, counsel is of the opinion that Nixon has no arguable grounds for appeal in this case. Therefore, in accordance with the requirements of *In Re: McCoy*, as well as *Anders* this appeal has been noted and Nixon will have his opportunity to file his *pro se* supplemental brief to raise those arguments he deems appropriate.

**CONCLUSION**

Counsel has reviewed the record and concluded that Nixon is eligible to be re-evaluated at present and will be afforded a new opportunity for review in this matter. In accordance with the requirements of In Re McCoy, 602 S.E. 2d 58, 360 S.C. 425, as well as Anders 386 U.S. 738 (1967) counsel has reviewed the facts and legal issues in the case. It is counsel's opinion that there are no arguable grounds for appeal in this case. Counsel will further submit his Motion for Relief as Appellate Counsel in this matter. A copy of the Motion and of this Brief has been served on Appellant.

**RESPECTFULLY SUBMITTED**



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ATTORNEY FOR APPELLANT

1/10, 2015

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DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL

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

- (1) Order of Continued Commitment
- (2) Transcript from Hearing January 27, 2014

I certify that this designation contains no matter which is irrelevant to this appeal.

1/12, 2015

  
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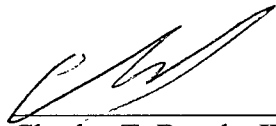
Appellate Case No: 2014-000235

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CERTIFICATE OF COUNSEL

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

1/12, 2015



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MOTION TO WITHDRAW AS COUNSEL


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COMES NOW counsel for the Appellant, Kevin Nixon, and moves to withdraw as Appellate Counsel for the following reasons:

1. Counsel believes, after a conscientious examination of the Court's order and opinion, the applicable law, and the considerations for review that an appeal of these matters would be frivolous. Therefore, counsel requests permission to withdraw from further representation of the Appellant with reference to this Appellate matter.

Respectfully Submitted this 12<sup>th</sup> day of January, 2015.

January 12, 2015



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