

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM ANDERSON COUNTY
Court Of Common Pleas, 04th Judicial Circuit

J.C. Nicholson, Circuit Court Judge

Case No: 2002-CP-04-3343

RECEIVED
APR 23 2013

SC COURT OF APPEALS

State Of South
Carolina.....Respondent,

v.

William
Deans.....Appellant.

NOTICE OF APPEAL

William Deans appeals the final order of the Honorable J.C. Nicholson dated Feb. 20, 2013. Appellant received written notice of entry of this order on Mar. 3, 2013.

William Deans appeals the denial of Honorable J.C. Nicholson of Appellants timely filed SCRCF, Rule 59 served upon the named party's on Mar. 11, 2013, and received Denial Of Rule 59 Motion on / about April 12, 2013.

see hereto: copy of Feb. 20, 2013 Order, (exhibit of R59 denial will follow when copies are made available)

April 23, 2013

William Deans
William Deans
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, C 29203
803-889-2922

Other Counsel of Record
Alan Wilson
SC Attorney General
Asst. Nicole T. Wetherton
PO Box 11549
Columbia, SC 29211

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PROOF OF SERVICE

I, William Deans, certify that I have served the Notice Of Appeal on Alan Wilson by depositing a copy of it in the United States, postage prepaid by Appeal, on, Apr. 23, 2013 addressed to Alan Wilson / Nicole T. Wetherton, PO Box 11549, Columbia, C 29211, at his office on Apr. 21, 2013

April 23, 2013

William Deans

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APR 25 2013

SC Court of Appeal



FEB 26 2013

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF ANDERSON) CLERK OF COURT CASE NO. 2002-CP-04-3343

IN THE MATTER OF THE CARE) ORDER
AND TREATMENT OF)
WILLIAM DEANS,)
RESPONDENT.)

CLERK OF COURT'S OFFICE
ANDERSON SC
2013 FEB 26 P 3:04
GENERAL SESSIONS

This matter comes before the Court on annual review of William Deans's status as a Sexually Violent Predator pursuant to South Carolina Code Section 44-48-110. A hearing was held pursuant to Section 44-48-110 on February 13, 2013. Mr. Deans represented himself with Mr. Gordon A. Senerius, Esquire, acting as an advisor to Mr. Deans by prior Order of the Court. The State was represented by Assistant Attorney General Lloyd V. Flores, Jr.

Mr. Deans was committed to the Sexually Violent Predator Treatment Program on or about July 13, 2004. The Court received a letter from the Department of Mental Health dated January 3, 2013, indicating Mr. Deans was exercising his right to a hearing. The Department also sent an Annual Review Packet to the Court, including an Annual Review Treatment Summary dated December 18, 2012.

The purpose of an annual review hearing held pursuant to South Carolina Code Section 44-48-110 is for the court to determine whether probable cause exists to believe that "the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence." S.C. Code Ann. § 44-48-110 (Supp. 2008). At the hearing, the committed person bears the burden of showing that probable cause exists to believe his mental condition has so changed that he is safe to be released. In re Care and Treatment of Tucker, 353 S.C. 466, 578 S.E.2d 719 (2003). In the context of Sexually Violent Predator cases, a party establishes probable cause when he presents evidence that "would lead a reasonable person to believe and conscientiously entertain" the proposition set forth at the hearing. See In re the Care and Treatment of Brown, 372 S.C. 611, 643 S.E.2d 118 (Ct. App. 2007) (establishing this standard for hearings held pursuant to South Carolina Code Section 44-48-80).

Documentation accompanying Mr. Deans's Annual Review Treatment Summary indicated he desired the appointment of an independent expert to conduct an evaluation concerning whether his mental abnormality had so changed that he is safe to be at large. After reviewing the treatment summary and based on Mr. Deans's admissions concerning treatment at the hearing, the Court denies Mr. Deans's request to an independent expert.

During the hearing, Mr. Deans did not present any evidence on his behalf to support a finding of probable cause in this matter. Moreover, Mr. Deans indicated he was still in the beginning stages of treatment and was only admitting "legal" guilt as opposed to "actual" guilt to his underlying sexually violent offenses to which he pled guilty in Anderson County. Because he bears the burden of showing probable cause exists to believe his mental condition has so changed that he is safe to be

released and he has failed to produce any evidence that would lead a reasonable person to believe and conscientiously entertain his mental condition has so changed, the Court must find and conclude Mr. Deans has failed to meet his burden, and must find no probable cause in this matter.

During the course of the hearing, Mr. Deans indicated to the Court part of his failure to attend treatment has been the Sexually Violent Predator Treatment Program's (SVPTP's) insistence that he accept guilt for charges that were dismissed in North Carolina involving improper acts against his former step-daughter. Mr. Deans has never admitted guilt to this conduct. Mr. Senerius also expressed dismay concerning this topic, and informed the Court Mr. Deans had been prevented from participating in treatment based on his failure to accept guilt for these charges.

Based on the prior filings in this case, the Court is aware of these charges and aware they were dismissed by authorities in North Carolina. The Court is further aware that Mr. Deans's former step-daughter testified concerning these allegations at his commitment trial. However, the Court takes issue with the SVPTP's insistence he accept guilt for these charges before he can enter in or continue in treatment on Constitutional grounds. Specifically, the Court believes Mr. Deans's right to be free from self-incrimination as guaranteed by the United States Constitution is being encroached by the SVPTP with regard to the dismissed North Carolina charges. See U.S. Const. amend. V ("No person . . . shall be compelled in any criminal case to be a witness against himself . . ."). By requiring Mr. Deans to admit to these charges before he can continue treatment, the SVPTP is potentially subjecting Mr. Deans to criminal liability and infringing on his right to be free from self-incrimination.

Moreover, based on Mr. Deans's assertions at the hearing, this insistence has placed a firm barrier in the way of his treatment. The Court is mindful that Mr. Deans's current participation in treatment and position concerning the charges he pled guilty to in Anderson County also place a firm barrier against his successful completion of treatment at this time. However, the Court believes Mr. Deans has a better opportunity to successfully complete treatment if he were not also being penalized for exercising his right to be free from self-incrimination.

Assistant Attorney General Flores raised the issue of whether the Department of Mental Health could be properly enjoined since they were not a party to the instant action. Mr. Flores argues that while the State of South Carolina is the Petitioner in the original action, he asserts the Department of Mental Health is a separate State agency not a party to the commitment or annual review actions. The Court disagrees with Mr. Flores's argument and finds that since the Department of Mental Health is an agency of the State and intimately involved in the sexually violent predator process, the Court can enjoin the SVPTP through the annual review process.

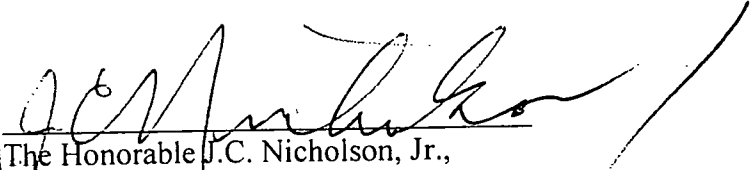
As a result, this Court sua sponte enjoins the SVPTP staff and personnel as well as any evaluator who has or may conduct an evaluation in this case and Mr. Deans to refrain from discussing or inquiring about charges and acts alleged to have taken place in North Carolina involving Mr. Deans's former step-daughter.

THEREFORE IT IS ORDERED, ADJUDGED AND DECREED that



1. William Deans shall continue to be confined in a secure facility of the Department of Mental Health for long-term control, care and treatment pursuant to the Sexually Violent Predator Act, Code of Laws of South Carolina, 1976, as amended, Sections 44-48-10 et seq.;
2. Mr. Deans continues under the jurisdiction of this Court; and
3. The Department of Mental Health and Mr. Deans are enjoined from discussing or requiring Mr. Deans to admit any allegations or prior conduct concerning dismissed criminal charges against his former step-daughter in North Carolina.

IT IS SO ORDERED.


 The Honorable J.C. Nicholson, Jr.,
 Presiding Judge for the Tenth Judicial Circuit
 Court of Common Pleas

2/20, 2013
~~ANDERSON~~ South Carolina

COMMON PLEAS AND
 GENERAL SESSIONS

2013 FEB 26 P 3:04

FILED-CLERK'S OFFICE
 ANDERSON SC

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J.C. Nicholson, Circuit Court Judge

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State Of South
Carolina.....Respondent,

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William
Deans.....Appellant.

MOTION FOR LEAVE OF COURT IN FORMA PAUPERIS

I, William Deans, Motions For Leave Of Court To Proceed Informa Pauperis, I certify that I can not proceed without leave of court.

That I do receive approximately \$14.25 a week rehabilitation money, that must be used to supplement food, and release funds. That I do not own any real property or a bank account.

It can be further shown that this appeal is taken, from a civil commitment pursuant to a criminal proceeding. ie: SCC Ann. 44-48-30.

Wherefore, Appellant moves for leave on appeal Indigent.

April 23, 2013

William Deans
William Deans
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, C 29203
803-889-2922

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MOTION FOR COURT OF APPEALS ARRANGE / PAY FOR TRANSCRIPT OF RECORD

Now Come, William Deans, moves this Court to arrange / order payment, for transcript of record. That Appellant is with the reasonable belief, that transcripts are normally paid for by / through the Office of Appellant Defense.

Appellant who is proceeding Pro-Se, will not receive meaningful access to the courts on appeal, should this Court not arrange, provide Appellant with a transcript of Record.

Wherefore, Appellant moves this Court to arrange / order a transcript of Record be prepared and provided to Appellant / by through presumably Office of SC Appellate Defense.

Respectfully submitted b,

April 23, 2013

William Deans

William Deans
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, C 29203

803-889-2922

April 23, 2013

The Honorable Kenneth A Richstad
Clerk, South Carolina Court Of Appeals
PO Box 11629
Columbia, SC 29211

RE; In The Matter Of Care Of
William Deans
Case No: 2002-CP-04-3343

Dear, Mr. Richstad,

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following,

- (1) Proof Of Service of the notice of appeal on the respondent.
- (2) A copy of the final order which is to be challenged on appeal.
- (3) A Motion Proceed Indigent.
- (4) A Motion For Court Order Payment Of Transcript Of Record.

Sincerely,

William Deans

William Deans
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, C 29203

803-889-2922

cc/
Other Counsel of Record
Alan Wilson / Nicole T. Wetherton
SC Attorney General
PO Box 11549
Columbia, SC 29211

RECEIVED

APR 25 2013

SC Court of Appeals

April 23, 2013

Clerk Of Court
Anderson County Courthouse
PO Box 8001
Anderson, SC 29622

Ref: In The Matter Of Care Of
William Deans
Case No: 2002-CP-04-3343

Dear, Clerk of Court,

Enclosed for filing is a notice of appeal in the above case.

Sincerely,

William Deans

William Deans
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, C 29203
803-889-2922

cc/
Other Counsel of Record
Alan Wilson / Nicole T. Wetherton
SC Attorney General
PO Box 11549
Columbia, SC 29211

The Honorable Kenneth A Richstad
Clerk, South Carolina Court Of Appeals
PO Box 11629
Columbia, SC 29211

Complimentary Copy
His Honorable J.C. Nicholson
100 Broad St. ste. 106 ^{us}
Charleston, SC 29401

RECEIVED
APR 25 2013

SC Court of Appeals

Honorable Judge J.C. Nicholson, Jr.
100 Broad St., Ste. 106 *MD*
Charleston, SC ~~29241~~ 29401

April, ²³2013

William Deans
7901 Farrow Rd.
Bldg. 3, 3d floor
Columbia, SC 29203

Ref: In Re William Deans
c/a: 2002-CP-04=3343

Sir.

Please, find inclosed as a complimentary copy, Notice of Intent To Appeal your final order in this matter.

Respectfully,

W Deans