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May 23 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County
The Honorable Grace Gilchrist Knie, Circuit Court Judge
Appellate Case No. 2021-000812

In the Matter of the Care and Treatment
of Jeffrey S. Owens,

Appellant.

RESPONDENT'S MOTION TO STRIKE

Pursuant to Rule 209(b), SCACR, Respondent State of South Carolina hereby moves to strike matter included in Appellant's Designation of Matter to be Included in the Record on Appeal (DOM) in the above captioned matter. This Motion is based on the following:

1. This appeal arises from a civil commitment trial pursuant to the Sexually Violent Predator Act (SVPA). The DOM includes "True-billed indictment(s)" (No. 1). There are no indictments in SVPA actions, except certified copies of sentencing sheets and indictments related to qualifying convictions that are submitted as evidence in the SVPA trial, and Appellant has not designated any trial exhibits. Therefore, the matter set forth in No. 1 of the DOM does not include any matter relevant to the appeal and should be struck.

2. The DOM also designates "State's Petition dated January 28, 2020" (No. 4). In SVPA cases, the Petition initiates the action and is submitted for consideration of whether there is

probable cause to believe the person is a sexually violent predator as defined by the SVPA such that a mental health evaluation is warranted. The Chief Administrative Judge in the circuit initially determines if the Petition sufficiently sets forth a basis for probable cause, and if so, orders a probable cause hearing. If probable cause is found at the hearing, the circuit court orders a mental health evaluation by a court appointed evaluator. From that point in the proceedings, the Petition and its contents are essentially irrelevant, and the Petition is not before the court and jury during the civil commitment trial.

The only citation to the Petition in the Initial Brief of Appellant is in the Statement of the Case (pg. 2), and the only possible purpose of the reference is the date the Petition was filed, which is not in dispute or relevant to this appeal. The only issue on appeal is related to a single statement during the State's reply closing argument. The Petition is a fifty-five page document that includes eight exhibits, none of which relate in any way to the trial evidence, much less the single statement at issue in this appeal. Therefore, the Petition is not relevant to this appeal, will only serve to make the Record on Appeal unnecessarily long and complex, and it should be struck from the DOM.

Based on the foregoing, Respondent submits No. 1 and No. 4 should be struck from Appellant's DOM because they are not relevant to this appeal.

Respectfully submitted,

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General
S.C. Bar No. 5098

Post Office Box 11549
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(Signature on following page)

By: Deborah R. Shupe
Deborah R.J. Shupe

ATTORNEYS FOR RESPONDENT

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In the Matter of the Care and Treatment
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Proof of Service


I, Sally B. Ellison, certify I served the Respondent's Motion to Strike on Appellant by email to the address reflected in the AIS system, and by depositing a copy in the United States mail, postage prepaid, addressed to:

Victor R. Seegar
Assistant Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

The Motion has also been filed with the Court of Appeals through the AIS system.

I further certify that all parties required by Rule to be served have been served.

This 23rd day of May, 2022.



Sally B. Ellison
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29402
(803) 734-3727

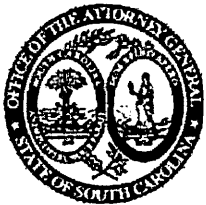
Misty Alewine

From: Sally Ellison
Sent: Monday, May 23, 2022 1:15 PM
To: 'vseeger@sccid.sc.gov'; Stock, Chris
Cc: Deborah Shupe; Sally Ellison; Victim Services
Subject: In the Matter of the Care and Treatment of Jeffrey S. Owens Appellate Case No. 2021-000812
Attachments: Respondent's Motion to Strike Jeffrey S. Owens Appellate Case No. 2021-000812 (02987735xD2C78).PDF

Good Afternoon:

Attached for service this date is the Respondent's Motion to Strike in the above matter. A copy of the Respondent's Motion to Strike will also be filed through the AIS System and a copy will be deposited in the United States mail as indicated on the Proof of Service.

SALLY ELLISON, Legal Assistant
South Carolina Attorney General's Office
Criminal Division – SVP Unit | Office 803-734-4156
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scag.gov



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