

1979 WL 42912 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 9, 1979

**\*1 Re: Transcript of Commitment Proceedings**

Honorable Patsy L. Stone  
Judge of Probate  
Florence County  
P.O. Box 965  
Florence, South Carolina 29501

Dear Judge Stone:

You have inquired of this Office whether or not the Probate Court is required to maintain a verbatim transcript of the record in a civil commitment case. This question has been raised by several of the Probate Courts throughout the State.

The Probate Court in South Carolina is a court of record. See [§ 14-23-1120, Code of Laws for South Carolina, 1976](#), as amended. With regard to civil commitment situations the requirement of a transcript is specifically addressed by statute. In § 44-15-570 of the 1976 Code, as amended, it is provided that the individual alleged to be mentally ill has a right to a transcript of the record of the proceedings (civil commitment). It is further provided that if the individual is indigent, the transcript must be provided at no charge. In addition, [§ 44-17-620 of the Code of Laws for South Carolina, 1976](#), as amended, provides that when an appeal of a commitment decision is taken it shall be heard on the 'record'. Thus, it is without doubt that the legislature intended for a record to be made. Cf. [State ex rel. Hawks v. Lazaro, 157 W.Va. 417, 202 S.E.2d 109 \(1974\)](#).

Further, courts have concluded that the availability of a verbatim transcript of a civil commitment proceeding is a requirement of fundamental due process. [Lynch v. Baxley, 386 F.Supp. 378 \(D.C. Ala. 1974\)](#); [Suzuki v. Quisenberry, 411 F.Supp. 1113 \(D.C. Hawaii 1976\)](#).

Thus, it is the opinion of this Office that the availability of a verbatim transcript of record in civil commitment proceedings is required.

I remain,  
Very truly yours,

Edwin E. Evans  
Assistant Attorney General

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