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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Clarendon County
Honorable D. Craig Brown, Circuit Court Judge

Appellate Case No. 2021-000987

THE STATE.....*Respondent,*

v.

JON PAUL SMART.*Petitioner.*

MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF

Pursuant to Rule 213 of the South Carolina Appellate Court Rules, the South Carolina Public Defender Association and Justice 360 respectfully submit this Motion for Leave to File a Brief of *Amici Curiae* for Petitioner Jon Paul Smart.

STATEMENT OF INTEREST OF *AMICI CURIAE*

Amici are advocates who work on behalf of juveniles in South Carolina. The South Carolina Public Defender Association (“PDA”) is a non-profit corporation created to promote and support the advancement of indigent defense in the State of South Carolina. Membership in the PDA is made up of the Circuit Public Defenders, along with their chiefs, deputies and assistant public defenders, from every Judicial Circuit in South Carolina, as well as attorneys of the South Carolina

Commission on Indigent Defense (“SCCID”) in both the Appellate Defender and Capital Defender Divisions. With a total of more than 300 members, the PDA membership provides criminal defense services to indigents accused of criminal offenses in the State, County, and Municipal Courts throughout South Carolina. PDA members represent the majority of the people accused of serious misdemeanors and felonies in General Sessions Court throughout the state. A report from the Budget and Control Board estimated that, in 2006, PDA members handled eighty-five percent (85%) of the cases disposed of in General Sessions Court throughout South Carolina. PDA members routinely represent indigent clients in capital litigation and in cases in which the state is seeking life without the possibility of parole.

The PDA, through its officers and board of directors, has taken an active role as a stakeholder in South Carolina’s criminal justice system. The PDA provides training for its members; and is directly involved with SCCID in developing performance standards for indigent defense in South Carolina, with several of its board members acting as members of SCCID’s committee on standards and its president acting as vice chair of that committee. The PDA continues to actively participate in the state legislative process as a resource for the legislature, providing PDA membership’s unique knowledge of and professional experience in the legal representation of indigent people being criminally prosecuted by the government. Additionally, the PDA has submitted comments on proposed rules of criminal procedure and appeared before this Court to present those comments. The PDA has appeared as *amicus curiae* before this Court and the South Carolina Court of Appeals in other cases.

Justice 360 is a nonprofit organization based in Columbia, South Carolina, whose mission is to promote fair and just process for individuals facing extreme criminal sentences (such as the death penalty and life without parole and its equivalent). As part of that mission, Justice 360

attorneys represent juvenile clients in criminal proceedings in South Carolina and have been involved in litigation and criminal justice reform efforts on behalf of juvenile clients since the Supreme Court of the United States' decision in *Miller v. Alabama*, 567 U.S. 460, 471 (2012). Justice 360 currently handles individual cases involving juvenile clients facing life without parole and sentences that are the functional equivalent of life without parole. Additionally, Justice 360 gathers data, develops training materials, and serves as resource counsel to court-appointed counsel in cases where juveniles have been sentenced to life without parole or other similar punishments, or who are at risk of being sentenced to life without parole or a functional equivalent.

WHEREFORE, the South Carolina Public Defender Association and Justice 360 respectfully move this Court for leave to file its *amici* brief on these issues.

Respectfully submitted,

s/Lindsey Vann

LINDSEY S. VANN (No. 101408)
HANNAH FREEDMAN (No. 103373)
JUSTICE 360
900 Elmwood Avenue, Suite 200
COLUMBIA, SC 29201
(803) 765-1044
Counsel for Amicus Justice 360

MELISSA A. INZERILLO (No. 69416)
SIXTEENTH CIRCUIT PUBLIC DEFENDER
1675 York Hwy.
York, SC 29745
(803) 628-3031
*Counsel for South Carolina Public
Defender Association*

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