

The Supreme Court of South Carolina

Freddie Eugene Owens, Brad Keith Sigmon, Gary
DuBose Terry, and Richard Bernard Moore,
Respondents-Appellants,

v.

Bryan P. Stirling, in his official capacity as the Director
of the South Carolina Department of Corrections, South
Carolina Department of Corrections, and Henry
McMaster, in his official capacity as Governor of the
State of South Carolina, Appellants-Respondents.

Appellate Case No. 2022-001280

ORDER

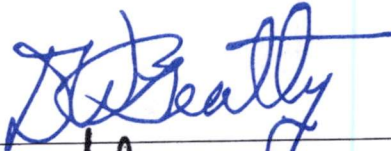
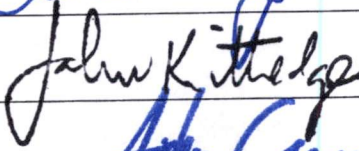
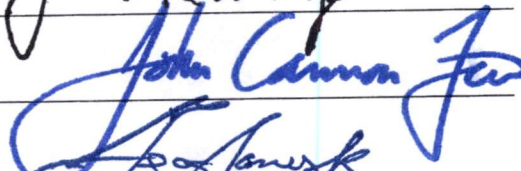


In this challenge to the constitutionality of Section 24-3-530 of the South Carolina Code (Supp. 2023), the circuit court found, among other things, that electrocution and the firing squad were unconstitutional methods of execution and the denial of the right to choose between constitutional methods of execution violated Section 24-3-530. The circuit court denied the discovery request by Respondents-Appellants (Inmates) for information on the availability of lethal injection. Inmates and Appellants-Respondents (the State) appealed. This Court reversed the circuit court's denial of Inmates' discovery request and remanded the matter to the circuit court to allow the parties to conduct discovery on the lethal injection issue. The remainder of the appeal was held in abeyance pending the circuit court's resolution of the discovery issue. *Owens v. Stirling*, 438 S.C. 352, 361, 882 S.E.2d 858, 862–63 (2023).

Now that the South Carolina Department of Corrections has been able to obtain drugs for lethal injections, the State moves to lift the abeyance, dismiss the case, and vacate the order of the circuit court. We deny the motion to dismiss the case and the motion to vacate the order of the circuit court. We grant the motion to lift the abeyance. We vacate the portion of our opinion remanding the case to the

circuit court.

In light of the recent amendments to Section 24-3-580 of the South Carolina Code (Supp. 2023) (the Shield Statute), we find it necessary to revisit the underlying issues in this matter. Accordingly, this Court will rehear arguments on the merits of the appeal from the order of the circuit court, including any arguments as to the effect of the Shield Statute on the merits, on February 6, 2024.

Should the parties wish to amend their briefs to include arguments related to the Shield Statute, the following schedule shall be followed. The State shall serve and file an amended Appellants' brief by 5:00 p.m. on November 27, 2023. Inmates shall serve and file an amended Respondents' brief by 5:00 p.m. on December 27, 2023. Any amended reply brief shall be served and filed by 5:00 p.m. on January 8, 2024. No extensions shall be permitted.


_____ C.J.

_____ J.

_____ J.

_____ J.

_____ J.

Columbia, South Carolina
October 31, 2023

cc:
William Grayson Lambert, Esquire
Thomas Ashley Limehouse, Jr., Esquire
Erica Wells Shedd, Esquire
Daniel Clifton Plyler, Esquire