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**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Honorable Ralph K. Anderson III, Chief Administrative Law Judge

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Case No. 2023-001750

Op. No. 6021 (S.C. Ct. App. Oct. 18, 2023)

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Stewart Buchanan, #69848,

Appellant,

v.

South Carolina Department of  
Probation, Parole and Pardon Services

Respondent.

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**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

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Attorneys for *Amicus Curiae* Mr. Matthew Williams, #215077

Matthew Williams, #215077 (“Mr. Williams”), by and through undersigned counsel, respectfully moves for leave to file and serve an *amicus curiae* brief in this matter pursuant to Rule 213 of the South Carolina Appellate Court Rules. Mr. Williams files his proposed *amicus curiae* brief conditionally with this motion for leave, pursuant to Rule 213. Mr. Williams files this motion on the following grounds:

1. Mr. Williams is an incarcerated individual. He was denied parole by the South Carolina Department of Probation, Parole and Pardon Services (“Respondent” or the “Board”) for the fifth time on September 22, 2021.

2. Mr. Williams has appealed a decision of the Administrative Law Court affirming his fifth denial of parole to the South Carolina Court of Appeals. *See Williams v. S.C. Dep’t of Probation, Parole and Pardon Services*, App. No. 2022-001585. Final briefing is complete in Mr. Williams’s appeal.

3. The issues raised in the Petition for a Writ of Certiorari (“Petition”) of Appellant Stewart Buchanan (“Appellant”) are significant for Mr. Williams and for all parole-eligible incarcerated individuals across the State of South Carolina. (*See* Pet. for Writ of Cert.) Specifically, as detailed in the Petition (*id.* at 6–9), the October 18, 2023 decision of the South Carolina Court of Appeals in Appellant’s case might be read to suggest that Respondent can evade review of parole decisions reached without fulfillment of statutorily-mandated decision-making procedures by simply issuing a *pro forma* letter stating compliance therewith after the fact. *See Buchanan v. S.C. Dep’t of Probation, Parole & Pardon Servs.*, App. No. 2019-001554, Op. No. 6021, 2023 WL 5597908 (S.C. Ct. App. Aug. 30, 2023) [hereinafter *Buchanan*]. The *Buchanan* decision is a significant departure from South Carolina law in need of this Court’s review because it contradicts the holding of *Cooper v. South Carolina Department of Probation,*

*Parole and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008), *abrogated on other grounds* by *Allen v. S.C. Dep't of Corr.*, 439 S.C. 164, 886 S.E.2d 671 (2023).

4. Neither the *Cooper* decision nor this Court's later decisions authorize Respondent to protect parole denials from review by Respondent's own fiat. *See Cooper*, 377 S.C. at 499, 661 S.E.2d at 112 (“We find the apparent failure by the Parole Board to consider the requisite statutory criteria in rendering its decision constitutes an infringement of a state-created liberty interest and, thus, warrants minimal due process procedures. Therefore, we hold, *Cooper*'s appeal was appropriate for disposition under the APA and should have been reviewed by the ALC.”); *Compton v. South Carolina Department of Probation, Parole and Pardon Services*, 385 S.C. 476, 479, 685 S.E.2d 175, 177 (2009) (per curiam) (“In *Cooper*, we held that[,] if the Parole Board deviates from or renders its decision without consideration of the appropriate criteria, it essentially abrogates an inmate's right to parole eligibility and infringes on a state-created liberty interest, warranting minimal due process protection.”).

5. On the contrary, *Cooper* stressed that “the Legislature created this Board to operate within certain parameters”—not “to render decisions without any means of accountability.” *Cooper*, 377 S.C. at 499, 661 S.E.2d at 111. Despite that clear directive and the legislative intent behind it, however, *Buchanan* seemingly endorses the opposite approach. *See Buchanan*, 2023 WL 5597908, at \*6 (“[W]e read the authorities to instruct that the court system's role does not include looking behind the Board's statement that it has considered all of the factors and made its decision.”).

6. To protect his interests and the interests of potentially all parole-eligible incarcerated individuals throughout South Carolina, Mr. Williams seeks leave to file an *amicus*

*curiae* brief. Specifically, Mr. Williams seeks to offer this Court a thorough analysis of the *Cooper* and *Compton* decisions—two decisions critical to the *Buchanan* decision.

7. Mr. Williams’s *amicus curiae* brief, if permitted, will show that *Cooper* requires Respondent both (1) to reach its parole decisions in accordance with statutory requirements by “carefully consider[ing] the record of the prisoner before, during, and after imprisonment” under S.C. Code Ann. § 24-21-640, and also (2) to issue an order denying parole that contains a clear statement of compliance with procedural obligations under *Compton*, 385 S.C. at 479, 685 S.E.2d at 177. Under *Cooper* and *Compton*, Respondent’s failure to do either renders its decision subject to review. In other words, the second requirement is a necessary—but not *sufficient*—condition for satisfying Respondent’s statutorily-mandated decision-making procedure. To the extent that *Buchanan* might be read to suggest that satisfaction of the second requirement obviates the need for satisfaction of the first, this interpretation contradicts *Cooper* and *Compton*.

For the foregoing reasons, Mr. Williams respectfully moves this Court for leave to file and serve an *amicus curiae* brief, and further moves this Court to accept for filing his conditionally filed brief attached hereto.

Respectfully submitted,

January 4, 2023

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