

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

Brad Keith Sigmon, Mikal D. Mahdi,  
Marion Bowman, Jr., and Steven V. Bixby,<sup>1</sup>

Movants,

v.

State of South Carolina,

Respondent.

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Appellate Case No. 2024-001373

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RESPONSE IN OPPOSITION TO MOTION TO MODIFY SCHEDULE

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Movants are all death-sentenced inmates who have exhausted state and federal remedies. In anticipation of their notices of execution being issued, Movants seek to modify the prior order of this Court dated August 30, 2024, that set the parameters for the Clerk to follow in issuing the notices. Movants seek to have the Court suspend the issuance of notices until January 3, 2025, to avoid executions in December and early January that may necessitate execution litigation during the “winter holidays.” (Motion, at 2). The State opposes the request and would respectfully show the Court:

On August 22, 2024, Movants (apart from Mr. Bixby) moved this Court for an order that would allow no less than 13 weeks between notices of execution. The State opposed the request on August 26, 2024. A reply was filed on August 28, 2024. After considering the positions offered by the parties, this Court issued an order on August 30, 2024, which was then amended that same

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<sup>1</sup> Mr. Bixby was not included in the original action.

day. The amended order “direct[ed] the Clerk of this Court to issue death notices in a manner to ensure an interval of at least thirty-five days between notices” reserving the right to “alter the thirty-five day interval should circumstances warrant.” According to the terms of the order, the next notice may be issued this Friday,<sup>2</sup> November 8, 2024, for Marion Bowman, Jr.

In a motion submitted November 5, 2024, movants seek to modify this Court’s Amended Order. Movants are requesting this Court prohibit the Clerk from issuing notices until January 3, 2025. (Motion, at 1). Movants assert that they “seek this short respite from six seriatim executions to avoid the pendency of warrants throughout the winter holidays and to ensure that all parties can best fulfill their constitutional responsibilities.” (Motion, at 1).

As a first matter, the State, as a party, neither consents to, nor joins the motion. The State stands ready to duly and carefully carry out its obligations under the law.

As a second matter, movants apparently seek delay based only on the “winter holidays.” (Motion, at 2). However, the movants have been aware of the potential schedule since August 30, 2024. Movants posit that they intend to litigate to “safeguard[] the fairness and reliability of the state justice system and the manner in which punishments are imposed,” and the delay is necessary to protect “the ability of all involved to litigate and adjudicate these matters in a deliberate and thorough fashion ....” (Motion, at 3-4). However, all parties have been keenly aware of the potential for litigation over the cited period since this Court allowed the first notice to issue on August 23, 2024. The obligation to provide fair and just representation during that time could not

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<sup>2</sup> This Court has separately provided: “... to avoid any confusion that may arise from the inmate not knowing which methods of execution are available at the time he is required to elect, we will (1) issue notices of execution only on Fridays, and (2) require the Director to file the subsection 24-3-530(B) affidavit within five days of the Notice of Execution. This procedure should allow the Director plenty of time as he will be able to anticipate when the Notice will be issued.” *Owens v. Stirling*, 443 S.C. 246, 292, 904 S.E.2d 580, 604 (2024).

have been an unanticipated responsibility. A look at past executions in this jurisdiction do not show a pause from November through January. *See Response in Opposition to Motion to Direct or Stay the Issuance of Execution Dates at Intervals of No Less Than 13 Weeks*, at pp. 3-4.<sup>3</sup> There is no cause to delay based on the time-period alone at this time either.

As a third matter, movants indicate that two executions have already taken place and “a brief pause in executions before possibly conducting the next four” would allow “all interested parties an opportunity to review the recent proceedings for any relevant or best practices that may be employed moving forward.” (Motion, at 2). Again, the State does not agree with Movants’ assertions. Moreover, there is ample evidence that all processes have been carefully followed and successfully employed. This addresses Movants’ concern “that execution processes are conducted with the utmost care and concern for reliability.” (Motion, at 3). Notably, Movants cite to no specific concern at all, but rest wholly on speculation. Such speculation should be deemed wholly insufficient to cause this Court to amend its order after it had previously, and carefully, considered the schedule that would result. Further, Movants indicate they wish “to ensure that the litigation and processes relating to upcoming execution warrants remains as sound and reliable as possible.” (Motion, at 4). However, Movants have offered nothing to show any danger that the “litigation and processes” would be otherwise. In fact, as set out similarly above, all parties have been keenly aware of the potential for “litigation and processes” since this Court allowed the first notice to issue on August 23, 2024. Nothing has changed.

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<sup>3</sup> The State set out the South Carolina executions between December 1998 and January 1999, as follows:

Larry Gilbert and J.D. Gleaton, December 4, 1998  
Louis Joe Truesdale, December 11, 1998  
Andrew Laven Smith, December 18, 1998  
Ronnie Howard, January 8, 1999, and  
Joseph Ernest Atkins, January 22, 1999.

*Conclusion*

For these reasons, the State opposes the motion and submits the motion should be denied.

Respectfully submitted,

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