

STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

STEVEN VERNON BIXBY,

Petitioner,

v.

STATE OF SOUTH CAROLINA

Respondent.

Appellate Case No. 2007-054161

**MOTION FOR ORDER REQUIRING DISCLOSURE
OF MENTAL HEALTH STATUS AND COMPETENCY**

On December 7, 2024, The State filed its Response in Opposition to the Motion for Stay of Execution, filed by Petitioner Bixby pursuant to the original jurisdiction of this Court. As part of that Response in Opposition, the State requested that this Court withhold its ruling and keep the record open until such time as it could move for and obtain an Order that would enable medical health professionals at SCDC to provide an affidavit as to Petitioner Bixby's competency for execution under *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993). As referenced, Respondent herein moves for such an Order, and would demonstrate to this court:

1. By way of his Motion for Stay of Execution, counsel for Petitioner Bixby has asserted that that Mr. Bixby is not competent to be executed, as set forth by *Singleton*.
2. In support, counsel for Petitioner has provided the report of Dr. Richard DeMier who opines:

'Mr. Bixby has significant deficits in his ability to properly assist his counsel for two reasons. First, he is unable to understand the nature of his proceedings. Second, he does not possess sufficient capacity or ability to rationally communicate with counsel.'

. . .

‘Mr. Bixby’s bizarre beliefs have apparently rendered him totally unable to understand the most basic legal procedures available at this stage of his case’. . . And, Mr. Bixby ‘is unable to have a coherent discussion with his attorneys about matters of legal relevance.’

3. Respondent seeks an Order from this court that would permit mental health professionals at SCDC, who are responsible for Mr. Bixby’s mental health needs on a daily basis, to provide this Court with an affidavit summarizing Mr. Bixby’s mental health and in particular his ability to communicate rationally. Such an affidavit would provide this Court with a clear understanding of whether any extraordinary circumstances exist that would permit a stay for a defendant who has otherwise exhausted all legal remedies following 18 years of state and federal litigation.
4. Pursuant to S.C. Code of Laws Ann. § 19-11-95(D)(1), this Court is authorized to provide an order that supersedes mental health confidentiality regarding the patient’s care and treat, or the nature and extent of a patient’s mental illness. In full, subsection (D)(1) sets forth:
 - (D) A provider shall reveal:
 - (1) confidences when required by statutory law or by court order for good cause shown to the extent that the patient’s care and treatment or the nature and extent of his mental illness or emotional condition are reasonably at issue in a proceeding; provided, however, confidences revealed shall not be used as evidence of grounds for divorce;
5. Good cause is shown here as counsel for Petitioner has put into dispute Petitioner’s competency as the sole basis for the stay. Respondent has the right to fully respond to such an allegation and demonstrate the failure of counsel to satisfy the burden required for a stay of execution on the basis of mental incompetence.

WHEREFORE having presented the above stated arguments, Respondent moves for an Order of the Court requiring disclosure of matters related to Mr. Bixby's mental health pursuant to S.C. Code of Laws Ann. § 19-11-95(D)(1).

Respectfully submitted,

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December 10, 2024.