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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Case No. 2002-024388

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Brad Keith Sigmon,  
*Petitioner,*

v.

STATE OF SOUTH CAROLINA,  
*Respondent.*

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MOTION FOR STAY OF EXECUTION PENDING RECEIPT AND REVIEW  
OF AUTOPSY OF MARION BOWMAN, JR.

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Since September 2024, South Carolina has executed three men: Freddie Owens, Richard Moore, and Marion Bowman. All died by lethal injection. But even after receiving the single, massive dose of pentobarbital prescribed by South Carolina's execution protocol and contemplated by this Court in *Owens v. Stirling*, 443 S.C. 246, 904 S.E.2d 580 (2024), each man was still alive for more than twenty minutes.

Mr. Moore's autopsy—the only one conducted and available—shows that he was injected with a second, equally massive dose of pentobarbital after ten minutes had passed. (Declaration of Dr. David B. Waisel, M.D., attached as Ex. 1.) Even after receiving twice as much pentobarbital as anticipated, Mr. Moore was not declared dead for another ten minutes. *Id.* at ¶ 7.

The autopsy also showed that Mr. Moore's lungs had filled with fluid—an excruciating condition known as pulmonary edema, which causes the sensation of drowning. *Id.* at ¶ 9.

When asked how many doses of pentobarbital were administered to Mr. Bowman over his 23-minute-long execution, a spokesperson for the South Carolina Department of Corrections declined to answer, saying only “we followed our protocol and that is not disclosed.”<sup>1</sup>

Brad Keith Sigmon could receive an execution warrant as soon as this Friday. He will be allowed to elect his method of execution pursuant to a state law ensuring that “a condemned inmate in South Carolina will never be subjected to execution by a method he contends is more inhumane than another method that is available.” *Owens*, 443 S.C. at 298–99, 904 S.E.2d at 608 (discussing S.C. Code Ann. § 24-3-530). Under that statute, Mr. Sigmon will die by electrocution unless he chooses the firing squad or lethal injection. But with the information currently available to Mr. Sigmon, he cannot begin to assess, much less contend, which method is the more inhumane.

Mr. Sigmon has “previously conceded a single dose of pentobarbital is constitutional if properly administered using reliable and effective drugs.” *Owens*, 443 S.C. at 282, 904 S.E.2d at 599. But on at least one occasion, SCDC has been forced to use a double dose. Given that a single dose should make a death as protracted as those suffered by Mr. Owens, Mr. Moore, and Mr. Bowman “a physiological and pharmacological impossibility,” Ex. 1 at at ¶ 8, this raises grave concerns: : 1) that during all three of SCDC’s recent executions, the drugs were either not properly administered,

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<sup>1</sup>12:51-13:06, ABC News 4, *Execution witnesses provide startling details on death of Marion Bowman Jr.* (available at: <https://www.youtube.com/watch?si=Gx7QpGRUONCRPemx&v=QYdswxKhbc4&feature=youtu.be>)(last visited February 5, 2025).

not reliable and effective, or all of the above; and 2) that, like Mr. Moore, Mr. Owens and Mr. Bowman also suffered from pulmonary edema during their prolonged deaths.<sup>2</sup>

No autopsy was performed for Mr. Owens. Before Mr. Bowman's death, however, he and his next-of-kin agreed to an autopsy. The report from that autopsy will reveal whether Mr. Bowman also needed two doses of pentobarbital, and whether he, too, suffered from pulmonary edema.

Mr. Sigmon accordingly moves this Court to order its clerk not to issue an execution date until he and his counsel have received and, with expert assistance, reviewed Mr. Bowman's autopsy report. Mr. Sigmon respectfully submits that this information is necessary for him to have a meaningful opportunity to identify and reject the more inhumane of South Carolina's available methods of execution.

Mr. Sigmon will apprise this Court promptly of the receipt of the autopsy report.

Respectfully submitted, this, the 5<sup>th</sup> of February, 2025.

*/s Joshua Snow Kendrick*  
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<sup>2</sup> Mr. Sigmon is aware that SCDC has proffered expert evidence that takes a different view of the risks, but this has merely added to the uncertainty, which only additional facts can put to rest.