

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Feb 27 2025

S.C. SUPREME COURT

BRAD KEITH SIGMON,

Petitioner,

v.

BRYAN P. STIRLING, DIRECTOR OF THE SOUTH  
CAROLINA DEPARTMENT OF CORRECTIONS, AND  
THE SOUTH CAROLINA DEPARTMENT OF  
CORRECTIONS.

Respondents.

Appellate Case No. 2025-000187

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**RESPONSE IN OPPOSITION TO MOTION FOR STAY OF EXECUTION**

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Brad Sigmon was originally tried for the brutal murders of David and Gladys Larke in July 2002. He was convicted and sentenced to death. Since then, he has pursued a direct appeal of his conviction; exercised his opportunity for a state post-conviction relief action and sought review of the PCR court's decision from this Court, leading to another opinion from this Court affirming his conviction; exhausted federal habeas review, first before the U.S. Court for the District of South Carolina, and then on appellate review before the Fourth Circuit Court of Appeals; pursued a second PCR action; and filed an earlier stay motion and petition in this Court's original jurisdiction. Now, with his execution scheduled for March 7, 2025, Sigmon asks this Court once again to issue a stay so it can consider a new (or, more accurately, partly new) petition for writ of habeas corpus in this Court's original jurisdiction. Respondent opposes this motion because Sigmon has failed to show any error, much less constitutional error amounting to the "exceptional circumstances" that must support a stay. *In re Stays of Execution in Cap. Cases*, 321 S.C. 544,

548, 471 S.E.2d 140, 142 (1996). Indeed, as noted in Respondent’s substantive response to the petition, it is not clear that Respondent has raised any constitutional error at all. In support of its opposition to the stay, Respondent would respectfully show the Court:

1. As briefly recounted above, Brad Sigmon has used a wide variety of procedural avenues to challenge his conviction. Now, he brings new arguments of a sort—at least parts of them were considered and rejected by the federal courts—supported in part by evidence gathered in some cases at least four years ago. Further, he asks this Court to redo its statutorily mandated proportionality review and override the twelve-member jury’s decision that death was appropriate based on a mistaken synthesis of two cases that do not support his argument.<sup>1</sup> None of the issues raised in his petition warrant merits review, much less a stay of execution.

2. Sigmon’s appeal for a stay falls short on at least two grounds. First, he does not show an action in which the Court has exercised its original jurisdiction such that a merits review of his Petition for Writ of Habeas Corpus is warranted.<sup>2</sup> However, Sigmon also fails to satisfy the independent standard for the grant of a stay; he has not shown the exceptional circumstances warranting one. As discussed in Respondent’s other filing and briefly recounted here, his arguments lack legal merit.

Sigmon asks for a grant of habeas relief on the basis of (1) his eleventh-hour disclosure of a diagnosis of bipolar disorder, reportedly misdiagnosed for years as a depressive condition, and other evidence buttressing his mitigation case in the sentencing proceeding; (2) his counsel’s

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<sup>1</sup> Petitioner received the one proportionality review he was entitled to during his direct appeal. *See State v. Sigmon*, 366 S.C. 552, 556–57, 623 S.E.2d 648, 650 (2005) (citing S.C. Code Ann. § 16-3-25(A), (C) (2003)).

<sup>2</sup> Respondent has today filed a separate return requesting that the Court deny Sigmon’s petition for the writ in *Sigmon v. Stirling*, Case No. 2025-000309. This response will briefly summarize some of those arguments, but Respondent would refer this Court to the full return.

alleged failure to discover or present the additional mitigating evidence; and (3) an unsupported assertion of a right to a second proportionality review by this Court. As set forth in the Return to the Petition for the Writ of Habeas Corpus, Sigmon’s arguments on mental health and mitigating arguments largely rely on old arguments repackaged with new facts, and neither South Carolina statutory law nor this Court’s precedents require a second proportionality review.

Specifically, as to the “new” evidence of Sigmon’s mental state, little of it is genuinely new. He frequently relies on affidavits used in his previous habeas corpus action. The recent diagnosis of bipolar disorder raises, at most, questions about his original diagnosis and the effects of age on his condition. His claim regarding a second proportionality rule has no basis in South Carolina law. These are not meritorious claims. But even if they were, meritorious claims are not enough.

3. This Court has recently reiterated the state test for original jurisdiction habeas relief.

A habeas petition must support the relief requested. *Gibson v. State*, 329 S.C. 37, 40, 495 S.E.2d 426, 427 (1998). While the allegations in the petition are treated as true, the petition must set forth a prima facie case showing the petitioner is entitled to relief. *Id.* In other words, it must allege that the petitioner has exhausted all other remedies, and it must set out a constitutional claim that meets the standard delineated in *Butler*. *Id.* at 40, 495 S.E.2d at 428. . . . [A] defendant bears a much higher burden of proof in a habeas proceeding.

*Moore v. Stirling*, 436 S.C. 207, 219, 871 S.E.2d 423, 429 (2022). And the standard announced in *Butler* is more demanding than a simple assertion that a constitutional right has been violated. *See Butler v. State*, 302 S.C. 466, 468, 397 S.E.2d 87, 88 (1990) (“We caution that not every intervening decision, nor every constitutional error at trial will justify issuance of the writ. Rather, the writ will issue only under circumstances where there has been a ‘violation, which, in the setting,

constitutes a denial of fundamental fairness shocking to the universal sense of justice.” (quoting *State v. Miller*, 16 N.J. Super. 251, 84 A.2d 459 (1951)).

4. This Court unquestionably has the constitutional authority to issue a number of extraordinary writs in its original jurisdiction, including a writ of habeas corpus. *See* S.C. Const. Art. V, § 5. The exercise of that jurisdiction, however, is discretionary. *Id.* *See generally* 39 C.J.S. Habeas Corpus § 293 (December 2024 update). A petition is required to seek such review, but jurisdiction is only requested—not obtained—when the petition is filed. *See* Rule 245(b); *Mod. Fin. Co. v. Hicks*, 235 S.C. 212, 216, 110 S.E.2d 859, 861 (1959) (“Whether or not this court should exercise original jurisdiction is a matter not for agreement between litigants, but for determination by this Court in the light of its rules and of the facts upon which such jurisdiction is invoked.”). As this Court has said, “habeas corpus continues to be available as a constitutional remedy provided a petitioner qualifies for this extraordinary relief and clears the procedural hurdles.” *Gibson v. State*, 329 S.C. 37, 41, 495 S.E.2d 426, 428 (1998). *See also Moore*, 436 S.C. at 219, 871 S.E.2d at 429 (“Habeas relief is seldom used and acts as an ultimate ensurer of fundamental constitutional rights.” (quoting *Williams v. Ozmint*, 380 S.C. 473, 477, 671 S.E.2d 600, 602 (2008))).

As Sigmon’s own petition shows, the bar for this Court invoking its original jurisdiction is set high. (*See* Pet. at 4). He states repeatedly that his execution “would deny fundamental fairness and shock the university sense of justice” for the reasons he raises in his petition. Likewise, Sigmon’s motion for a stay argues that his case has the exceptional circumstances that this Court found necessary in its *In re Stays of Execution in Cap. Cases* opinion. *See* 321 S.C. at 548, 471 S.E.2d at 142. But saying it does not make it so. What Sigmon raises are the kinds of claims that are often considered—and in his case, often have been considered—during review on direct

appeal; PCR review and (if warranted) PCR review on appeal; and federal habeas review. The pendency of his execution cannot by itself be an exceptional circumstance; if so, every inmate able to make a colorable constitutional claim would be able to readily obtain review as the execution approached. Mr. Sigmon’s mental health issues, and the proportionality of his sentence, have been reviewed (sometimes more than once) in various proceedings for twenty years now.

In fact, aside from the recently disclosed diagnosis of bipolar disorder—rather than a different mental illness Sigmon was earlier diagnosed with—there is little new in his claims before this Court to warrant a finding of exceptional circumstances. The “new” evidentiary facts perhaps add more texture. But the addition of those details does not constitute an exceptional circumstance, because the general claims have been considered.

## CONCLUSION

Sigmon has not asserted meritorious claims, and even if he had, he has not met the standards for this Court to issue a stay. The motion should be denied.

Respectfully submitted,

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February 27, 2025