

The Supreme Court of South Carolina

The State, Respondent,

v.

Brad Keith Sigmon, Petitioner.

Appellate Case No. 2025-000187

AND

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. 2025-000309

ORDER

Brad Keith Sigmon has filed a petition for a writ of habeas corpus in this Court's original jurisdiction and a motion to stay his March 7, 2025, execution while this Court considers his petition for a writ of habeas corpus. Further, Sigmon has filed a motion for reconsideration of this Court's February 19, 2025 order. That order denied his request to stay the execution, require the director of the South Carolina Department of Corrections (SCDC) to provide further information, and extend the interval between executions for the completion and review of any autopsy reports from the most recent execution. Finally, Sigmon has filed a motion to seal the Marion Bowman autopsy report (Exhibit 8), which Sigmon attached to his motion for reconsideration.

These motions come after an extensive procedural history. Sigmon was convicted in 2002 of two counts of murder and first-degree burglary. He was sentenced to death for murder and thirty years' imprisonment for burglary. We affirmed Sigmon's conviction on direct appeal. *State v. Sigmon*, 366 S.C. 552, 623 S.E.2d 648 (2005). The United States Supreme Court denied Sigmon's petition for writ of certiorari from that decision. *Sigmon v. South Carolina*, 548 U.S. 909 (2006). In 2006, Sigmon applied for post-conviction relief (PCR), which was denied. We affirmed the PCR court's denial of Sigmon's application. *Sigmon v. State*, 403 S.C. 120, 742 S.E.2d 394 (2013).

In 2013, Sigmon filed a petition for a writ of habeas corpus in the U.S. District Court, which denied the petition. *Sigmon v. Stirling*, 8:13-cv-01399-RBH, 2018 WL 4691197, at *1 (D.S.C. Sept. 30, 2018). The Fourth Circuit Court of Appeals affirmed. *Sigmon v. Stirling*, 956 F.3d 183 (4th Cir. 2020). The United States Supreme Court then denied Sigmon's petition for a writ of certiorari. *Sigmon v. Stirling*, 141 S.Ct. 1094 (2021).

On August 21, 2014, Sigmon filed a second PCR application, which the PCR court denied as untimely and impermissibly successive. We dismissed the notice of appeal under Rule 243(c), SCACR. *Sigmon v. State*, S.C. Sup. Ct. Order filed Aug. 21, 2017.

In 2021, Sigmon petitioned for a writ of habeas corpus in this Court's original jurisdiction. We denied that petition. *Sigmon v. State*, S.C. Sup. Ct. Order filed June 16, 2021. Sigmon now raises the stated motions. We, therefore, address each in turn.

Petition for a Writ of Habeas Corpus

Sigmon contends he is entitled to a writ of habeas corpus because (1) no jury has heard the mitigating evidence of his bipolar II disorder, neurocognitive deficits, and traumatic and abusive childhood; (2) ineffective assistance of trial and post-conviction relief (PCR) counsel in investigating and presenting mitigation evidence; and (3) the insufficiency of this Court's 2005 proportionality review and the disproportionality of his death sentence.

Habeas corpus relief is available to prisoners in South Carolina in this Court's original jurisdiction. *See* S.C. Const. art. I, § 18. Writs of habeas corpus are seldom used—only when necessary to ensure fundamental constitutional rights—and the applicant bears a much higher burden in a habeas corpus proceeding.

Williams v. Ozmint, 380 S.C. 473, 477, 671 S.E.2d 600, 602 (2008). Therefore, a writ of habeas corpus will be issued "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.'" *Butler v. State*, 302 S.C. 466, 468, 397 S.E.2d 87, 88 (1990) (quoting *State v. Miller*, 84 A.2d 459 (N.J. Super. 1951)); *see also Moore v. Stirling*, 436 S.C. 207, 218–19, 871 S.E.2d 423, 429 (2022) ("Two components are needed to meet the standard articulated in *Butler* and other cases. The petitioner must prove (1) the existence of a constitutional violation; and (2) the denial of fundamental fairness which, in the setting, is shocking to the universal sense of justice."); *McWee v. State*, 357 S.C. 403, 406, 593 S.E.2d 456, 457 (2004) (stating a writ of habeas corpus will be granted only under "unique and compelling circumstances"). This Court has noted that "[a]t some juncture judicial review must stop, with only the very rarest of exceptions, when the system has simply failed a defendant and where to continue the defendant's imprisonment without review would amount to a gross miscarriage of justice." *Williams*, 380 S.C. at 480, 671 S.E.2d at 603.

Mitigating Evidence

Sigmon asserts that his execution would be a denial of fundamental fairness shocking to the universal sense of justice because no jury has heard the mitigating evidence of his bipolar II disorder, neurocognitive deficit, and traumatic and abusive childhood. *See Butler*, 302 S.C. at 468, 397 S.E.2d at 88.

Sigmon has shown no constitutional violation regarding the lack of mitigating evidence. Trial counsel in a capital case must conduct a reasonable and thorough investigation into mitigation evidence and present the same at sentencing. *Williams v. Taylor*, 529 U.S. 362, 393 (2000); *see also Rompilla v. Beard*, 545 U.S. 374, 390 (2005); *Wiggins v. Smith*, 539 U.S. 510, 538 (2003); *Rosemond v. Catoe*, 383 S.C. 320, 326, 680 S.E.2d 5, 9 (2009). Here, trial counsel presented extensive evidence of Sigmon's medical, family, and social history through numerous witnesses at sentencing.

Further, even if trial counsel's performance were deficient, the deficiency was not prejudicial because the mitigating evidence Sigmon now presents, taken as a whole, would not likely have influenced the jury's appraisal of Sigmon's culpability in light of the significant evidence supporting the aggravating circumstances found by the jury. *See Rosemond*, 383 S.C. at 326, 680 S.E.2d at 9 (holding when determining whether counsel's failure to present adequate mitigation evidence resulted in prejudice, this Court must determine whether the mitigating evidence,

taken as a whole, might have influenced the jury's appraisal of the defendant's culpability). Therefore, any deficiency would not render Sigmon's execution shocking to the universal sense of justice.

Proportionality

Sigmon also argues he is entitled to a second proportionality review under *Moore v. Stirling*, 436 S.C. 207, 871 S.E.2d 423 (2022). Sigmon contends his death sentence is disproportionate because no court has had an opportunity to consider his mental illness, neurocognitive deficits, and traumatic and abusive childhood. Sigmon presents a study examining datasets including South Carolina homicide cases and capital prosecutions, alleging the study shows South Carolina's use of the death penalty is not driven by rational factors.

Sigmon is not entitled to a second proportionality review and has shown no constitutional violation based on disproportionality. *Moore* held that this Court is not statutorily required to limit the pool of "similar cases" for comparative proportionality review to only those cases in which the death penalty was imposed. 436 S.C. at 230, 871 S.E.2d at 435. However, *Moore* did not set forth a retroactive rule requiring a new proportionality review that includes cases in which the death penalty was not imposed. Because Sigmon is not entitled to a second proportionality review, it is unnecessary to reach his arguments for why his death sentence was disproportionate.

Ineffective Assistance of Counsel

Sigmon contends his execution would be a denial of fundamental fairness shocking to the universal sense of justice because trial counsel failed to interview or sufficiently interview critical witnesses and failed to follow up on leads that would have led to the discovery of the mitigating evidence of Sigmon's bipolar II disorder, neurocognitive deficits, and traumatic and abusive childhood. Sigmon also argues PCR counsel for his 2006 PCR proceedings were ineffective for failing to raise arguments about the ineffective assistance of trial counsel for failing to discover the mitigating evidence he now presents.

Sigmon's ineffective assistance of counsel arguments fail to show a constitutional violation for reasons similar to his mitigating evidence argument. As mentioned, trial counsel's investigation into Sigmon's medical, family, and social history was extensive, and counsel interviewed and called numerous witnesses to testify at the sentencing hearing about Sigmon's history.

Further, even if counsel's failure to interview specific witnesses was deficient, there was no prejudice because, taken as a whole, the mitigating evidence supplied by the interviews would not have influenced the jury's appraisal of Sigmon's culpability. *See Rosemond*, 383 S.C. at 326, 680 S.E.2d at 9.

Sigmon's ineffective assistance of PCR counsel argument fails because he alleges no reason other than the mere deficient performance of PCR counsel to consider his ineffective assistance of PCR counsel claim. *See Aice v. State*, 305 S.C. 448, 451, 409 S.E.2d 392, 394 (1991) (holding the contention that prior PCR counsel was ineffective is not *per se* a sufficient reason allowing for a successive PCR application).

In any event, Sigmon has filed and received review of two prior PCR applications, providing an opportunity to raise these claims. We have held that "a matter which is cognizable under the [Uniform Post-Conviction Procedure Act] may not be raised by a petition for a writ of habeas corpus" as habeas relief should not substitute for direct appeal or other available remedies. *Simpson v. State*, 329 S.C. 43, 46, 495 S.E.2d 429, 431 (1998); *see Williams*, 380 S.C. at 479–80, 671 S.E.2d at 603 (holding review below was "more than sufficient" for a petitioner for a writ of habeas corpus where the petitioner already received review of his PCR claims in state PCR and federal habeas proceedings). Accordingly, we find Sigmon has failed to show a denial of fundamental fairness shocking to the universal sense of justice or a constitutional violation; therefore, the petition for a writ of habeas corpus is denied. *See Moore*, 436 S.C. at 218, 871 S.E.2d at 429 (holding to successfully petition for a writ of habeas corpus, a petitioner must prove (1) the existence of a constitutional violation; and (2) a denial of fundamental fairness that, in the setting, shocks the universal sense of justice).

Motion to Stay Execution

Under *In re Stays of Execution in Capital Cases*, 321 S.C. 544, 548, 471 S.E.2d 140, 142 (1996), a motion for a stay of execution pending the filing of a successive PCR action or a petition for a writ of habeas corpus must demonstrate exceptional circumstances warranting the issuance of a stay. Because Sigmon has not shown exceptional circumstances, we deny the motion to stay the execution.

Motion for Reconsideration

Sigmon moves for this Court to reconsider its order denying his request to stay the execution, require the director of SCDC to provide further information, and extend the interval between executions for the completion and review of any autopsy reports from the most recent execution. Sigmon argues the Bowman autopsy report corroborates his concerns about the adequacy of SCDC's certifications as to its lethal injection drugs.

After reviewing the autopsy report and finding nothing that changes our conclusion from the February 19, 2025, order, we deny the motion for reconsideration.

Motion to Seal

Sigmon moves to seal Marion Bowman's autopsy report that was filed with his motion for reconsideration, arguing sealing the autopsy report will safeguard extensive medical information. We find no compelling reason to seal the autopsy report. *See State v. Price*, 441 S.C. 423, 442, 895 S.E.2d 633, 642–43 (2023) ("Pursuant to the First Amendment to the United States Constitution, article I, section 9 of the South Carolina Constitution, and section 14-5-10 of the South Carolina Code, no South Carolina court—not this Court, the court of appeals, nor any trial court—may seal any portion of a court record from public view unless there is a specific provision of law permitting it."); 441 S.C. at 435, 895 S.E.2d at 639 (holding "no court records may be sealed from public view unless the . . . sealing is authorized by a specific provision of law"); 441 S.C. at 440, 895 S.E.2d at 641–42 ("Judicial proceedings and court records are presumptively open to the public under the common law, the First Amendment of the federal constitution, and [article I, section 9 of] the state constitution." (quoting *Ex parte Cap. U-Drive-It, Inc.*, 369 S.C. 1, 10, 630 S.E.2d 464, 469 (2006))). Therefore, the motion to seal is denied.

In summary, we deny Sigmon's petition for a writ of habeas corpus; motion to stay his March 7, 2025, execution; motion for reconsideration; and motion to seal the Marion Bowman autopsy report.

John Kittledge C.J.
John Cannon J.
John Cannon J.
D. Hamilton J.
Antete H. Verdin J.

Columbia, South Carolina
March 4, 2025

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