

2. The constitutional harm from the delay is compounded by Respondent's obstruction of judicial review of critical evidence—a sworn affidavit from the State's own pathology expert—which undermines the existence of a crime and substantially mitigates the post-death conduct underlying the desecration offense.
3. Stewart's elevated position of trust within SCDC, combined with his imminent eligibility for supervised release, constitutes new exceptional circumstances demonstrating his suitability for release; and
4. Stewart's impending eligibility for supervised release provides a measured, equitable alternative to immediate release—allowing this Court to prevent further constitutional harm while ensuring statutory compliance and protecting the interests of justice and public safety.

Under these circumstances—particularly in light of the constitutional implications of Respondent's conduct—relief is warranted to prevent further harm.

ARGUMENT

The record establishes two undisputed facts:

1. This PCR action should have been resolved in 2024; and
2. It remains unresolved in 2026 solely due to Respondent's conduct.

Respondent—who drafted the lower court's orders—admittedly altered Stewart's claims to suggest they were based on facts other than the sworn affidavit of the State's trial pathologist. *RR p.18*. The PCR court then ruled on these substituted claims. *Id.* Despite notice, Respondent refused to correct the defective orders. *Id. at 19*. As a result, the court never reviewed material evidence from the State's own expert calling into question the existence of a homicide.

This obstruction of judicial review implicates due process and warrants relief to protect the integrity of the appellate process and prevent further constitutional harm. The resulting delay also creates new exceptional circumstances, including Stewart's imminent eligibility for supervised release, supporting immediate release pending resolution of the Petition or, at

minimum, release on June 6, 2026.

Stewart respectfully moves for such relief, based on the following:

**(A) RESPONDENT'S DELIBERATE AND ONGOING CONDUCT
HAS RESULTED IN CONSTITUTIONAL DELAY**

The record demonstrates that Respondent has deliberately caused avoidable and excessive delay in these PCR proceedings, both below and before this Court, depriving Stewart of timely and meaningful judicial review of the claims arising from Dr. Harley's affidavit in violation of due process.

At the lower court level, the delay is directly attributable to Respondent. Respondent prepared the PCR orders, materially altered Stewart's claims by omitting Dr. Harley's statements, and refused to correct that omission despite repeated notice. *Id. at 18-19.*² As a result, claims that should have been resolved in the 2024 PCR proceeding have been delayed for over two years.

This delay is especially significant because it concerns evidence material to the existence of a crime. Stewart has remained incarcerated while nearing completion of a sentence potentially based on a crime that never occurred.

Respondent's conduct has continued before this Court. After requesting four extensions, Respondent filed a Return with no factual or legal viability, serving only to prolong the proceedings. Respondent's approach contrasts with *Reese v. State*,³ where the respondent,

² Notably, Respondent acted as both advocate and de facto adjudicator, effectively depriving Stewart of his due process right to meaningful judicial review.

³ 425 S.C. 108, 820 S.E.2d 376 (2018).

faced with a defective PCR order, sought remand rather than defending the indefensible.

Respondent's intent to prolong the proceedings is further reflected in its request for expanded briefing if the Petition is granted, *Id. at 24*, despite previously acknowledging that remand would be the appropriate course. *Bond Return p. 5. "[I]f [Stewart] prevails in this appeal, the appropriate action will be to remand the case back to the lower court for reconsideration of the filings and potentially an evidentiary hearing on the merits "*.

In sum, Respondent's conduct has produced excessive delay in the review of evidence central to the existence of a crime, resulting in prolonged incarceration despite credible evidence undermining the conviction. This deprivation of timely judicial review violates due process.

Respondent has shown no willingness to cease these tactics absent intervention. The resulting irreparable constitutional harm entitles Stewart to relief, as addressed in the next section.

(B) CONSTITUTIONAL IMPACT OF CONTINUED CONFINEMENT WITHOUT JUDICIAL REVIEW OF CLAIMS

Stewart respectfully submits that the Court consider the interrelated nature of his voluntary manslaughter conviction and the severity of his desecration sentence, as well as the constitutional implications arising from continued delay in adjudicating claims that directly undermine both.

Stewart's sentence for voluntary manslaughter will be completed on June 6, 2026, at which time he will begin serving a nine-year sentence for desecration of human remains—one that approaches the statutory maximum. That sentence is inextricably intertwined with the manslaughter conviction, both procedurally and factually.

Although Stewart pled guilty to the desecration charge at arraignment, sentencing was expressly deferred until after the manslaughter conviction. As a result, the sentence imposed for desecration was shaped by the factual framework underlying the homicide conviction. The manslaughter conviction thus operated as a central contextual and aggravating factor in the imposition of a near-maximum sentence.

The sworn affidavit of the State's trial pathologist fundamentally alters that framework. *See App. 1591-94.* By calling into question whether a homicide occurred at all, the affidavit directly undermines the factual premise upon which both the conviction and the severity of the desecration sentence rest. It follows that the near-maximum sentence may have been imposed based on a factual foundation now subject to serious and credible dispute.

The constitutional implications are substantial.

Respondent's continued delay in permitting adjudication of these claims has the practical effect of prolonging Stewart's incarceration under a conviction that may be factually and legally unsound, while forcing him to transition into serving a lengthy sentence whose severity is tied to the same disputed premise. In doing so, Stewart is denied timely judicial review of claims that bear directly on both the validity of his conviction and the proportionality of his punishment.

In essence, Stewart's continued confinement—both present and imminent—is not the product of ordinary process, but of delay attributable to Respondent's conduct, which has compounded and extended the deprivation of his liberty. Taken together, these circumstances present ongoing constitutional harm arising from the denial of timely judicial review.

Under these conditions, principles of due process and fundamental fairness compel this Court's intervention and the granting of appropriate relief.

**(C) STEWART'S ELEVATED TRUST STATUS WITHIN SCDC
DEMONSTRATES THAT HE CAN BE TRUSTED TO COMPLY
WITH ANY CONDITIONS OF BOND**

Stewart was selected for his current minimum-custody work assignment based on his demonstrated reliability and trustworthiness. The circumstances of his selection underscore his integrity and character.

The warden of his current institution specifically requested recommendations from other wardens for an inmate suitable for outside work assignments. He emphasized that the candidate must be exceptionally trustworthy and reliable, as he would work with complete autonomy while institutional security resources remained focused on higher-custody inmates. Stewart was recommended and endorsed by the warden at his former institution and was ultimately selected.

His conduct supports that recommendation. At his prior institution, Stewart rendered first aid to a staff member who collapsed on prison grounds. On another occasion, he intervened to restrain an inmate who was attacking another with a weapon, subduing the assailant—without causing harm—until staff arrived.

At his current institution, Stewart has worked in sub-zero conditions salting sidewalks to prevent injury to essential staff. He also regularly performs voluntary tasks beyond his assigned duties that contribute to the facility's overall operation.

Stewart's elevated trust status reflects institutional confidence in his reliability, compliance, and judgment. It further reflects a determination by correctional authorities that he poses no meaningful risk of flight or danger to the public. In sum, the decision to permit Stewart to work outside the prison unsupervised is compelling, objective evidence that:

1. He will comply with all conditions imposed by the Court;

2. He is not a flight risk; and
3. He does not pose a danger to the community.

These factors establish that Stewart is an appropriate candidate for release on bond, with conditions that can be imposed and enforced with full confidence in his compliance.

**(D) STEWART'S IMMINENT SUPERVISED RELEASE
ELIGIBILITY DEMONSTRATES THAT RELEASE ON BOND
ALIGNS JUDICIAL RELIEF WITH ONGOING PROCESSES**

Stewart's supervised release eligibility date—June 6, 2026—marks a pivotal transition in his custodial status, as he moves to serving a nonviolent offense for which the State has already deemed parole appropriate for consideration. With a hearing scheduled for June, the South Carolina Department of Probation, Parole and Pardon Services (SCDPPPS) has initiated the parole process, including interviews with Stewart, family outreach, social history compilation, and preparation of a parole packet.

These developments confirm that Stewart's release is not speculative, but actively under review. Granting bond would therefore align judicial relief with an ongoing executive process already moving toward release.

Stewart's suitability for supervised release—whether by bond or parole—is well established. He holds a high position of trust within SCDC and has demonstrated strong family and community support, as previously presented in his first bond motion. Most compelling, however, is the credible evidence that he was convicted of a crime that may not have occurred, which served as an aggravating factor in imposing a near-maximum sentence for desecration.

While Stewart's post-death conduct was inappropriate, it must be evaluated in context. New evidence supports that his actions occurred in the aftermath of a traumatic suicide, further informed by his documented psychological vulnerabilities, youth, and lack of maturity at the

time.⁴

Taken together, these factors establish that immediate release on appeal bond is both factually and legally appropriate—particularly in light of the ongoing constitutional harm resulting from Respondent’s conduct and Stewart’s imminent eligibility for supervised release.

**(E) ALTERNATIVE RELIEF: CONDITIONAL RELEASE UNDER
SUPERVISION EFFECTIVE JUNE 6, 2026**

In the alternative, Stewart respectfully requests an order for release on June 6, 2026, under supervision of SCDPPPS, subject to conditions set by the Court. This narrowly tailored relief provides a measured constitutional remedy while ensuring statutory compliance and public safety.

Stewart completes his voluntary manslaughter sentence on June 6, 2026. His remaining nonviolent sentence of less than ten years satisfies *S.C. Code Ann. § 18-1-90*. Release on that date aligns the Court’s authority with existing statutory provisions.

Release under the supervision of SCDPPPS will not require new administrative action or place additional burdens on parole services, which has already undertaken substantial steps in preparation for Stewart's potential release. Conditional supervised release will ensure that Stewart remains subject to monitoring and community safety is preserved. Thus, this relief balances constitutional necessity with public safety considerations.

The defect before the Court is procedural: State-created delay has denied Stewart timely and meaningful judicial review in violation of due process. This relief directly remedies that harm by:

1. Mitigating ongoing prejudice from delay;

⁴ These factors are discussed in more detail in Section H of Stewart’s previously filed Reply to Respondent’s Return to Petition of Writ of Certiorari.

2. Preventing the State from benefiting from its procedural failures; and
3. Ensuring Stewart is not incarcerated longer due solely to unresolved judicial inaction.

Conditional release on June 6, 2026, cures the constitutional harm while preserving the interests of justice and public safety.

CONCLUSION

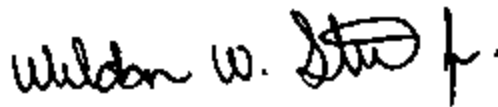
For the foregoing reasons, Stewart respectfully requests that this Court grant relief to remedy the ongoing constitutional harm caused by Respondent's delay. Specifically, Stewart requests that the Court:

1. Grant an appeal bond and order his immediate release pending resolution of his Petition for Writ of Certiorari and any necessary PCR proceedings; or, in the alternative,
2. Order his conditional release under supervision effective June 6, 2026, subject to such terms as the Court deems appropriate.

This relief is necessary to preserve the integrity of the judicial process, prevent further prejudice from unconstitutional delay, and ensure Stewart does not serve additional time due to the State's obstruction of timely review.

If the Court denies this Motion, Stewart respectfully requests that the Court state its reasons to permit appellate review of the constitutional issues presented.

Respectfully submitted,



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