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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Honorable Deadra L. Jefferson, Circuit Court Judge

Appellate Case No. 2025-001185

THE STATE OF SOUTH CAROLINA,

Respondent,

v.

MARK HAMILTON,

Appellant.

AMENDED RECORD ON APPEAL

VOLUME II

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DOCKET NUMBER
1992-GS-10-01680

GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

Plaintiff,

VS.

MARK HAMILTON,

Defendant.

APRIL 8, 2025

MOTION HEARING

B E F O R E:

The Honorable Deadra L. Jefferson, Presiding Judge.

C O U R T:

South Carolina Circuit Court 9

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P R O C E E D I N G S

(Whereupon, the following proceedings started at 9:44 a.m.)

THE COURT: This is the State of South Carolina versus Mark Hamilton, 1992-GS-10-1680.

(Court and clerk confer regarding video feed.)

THE COURT: All right. He was convicted on the offense of murder --

(Pause.)

THE COURT: -- on June 16th of 1993, and sentenced to life. He had successive appeals, which were affirmed, as well as post-conviction relief action that was affirmed and denied back in -- around 1998. He made a pro se request for re-sentencing, which was filed December 3rd of 2019. And he saw that pursuant to Aiken V. Byars.

(Pause.)

THE COURT: And on August 22nd of 2023, Judge Price appointed Ms. Blazer to represent Mr. Hamilton. Ms. Shealy is appearing for the State.

This --

MS. SHEALY: Your Honor --

THE COURT: I'm sorry.

MS. SHEALY: I'm just going to point out for the Court, Will Hampton is here, and he'll actually be doing the presentation, but I'm here with him.

THE COURT: And Mr. Hampton is with --

1 MS. SHEALY: The Solicitor's Office.

2 THE COURT: Okay.

3 MS. SHEALY: He's one of our newer attorneys.

4 THE COURT: Okay. Thank you.

5 MR. HAMPTON: Good morning, Your Honor.

6 THE COURT: Good morning.

7 Ms. Blazer, is there anyone assisting you?

8 MS. BLAZER: No, ma'am, Your Honor. Thank you.

9 THE COURT: You're welcome.

10 (Pause.)

11 THE COURT: Originally, Judge Price was assigned to hear
12 this case by Justice Beatty on June 27th of 2023. The case
13 was subsequently assigned to this Court on March 1st of 2024.

14 (Pause.)

15 THE COURT: And the State filed this response to the
16 defendant's motion and requested re-sentencing on March 12th
17 of 2025. And the Defense filed its response on April 3rd of
18 2025.

19 (Pause.)

20 THE COURT: At the time of Mr. Hamilton's conviction, he
21 was 17 years old. He was indicted on March 2nd of 1992. And,
22 again, he was sentenced June 16th of 1993, by Circuit Judge,
23 at that time, Luke M. Brown.

24 (Pause.)

25 THE COURT: And he's had two Post-conviction Relief

1 Actions, both of which were denied in 1998 and 2004.

2 (Pause.)

3 THE COURT: It is State's position, based on their filing
4 of 3/12/25, that Mr. Hamilton is not entitled to an Aiken
5 hearing, because under the sentencing scheme when he was
6 convicted and sentenced there was a possibility for parole in
7 South Carolina. It was not as the current statute, which has
8 been amended, which is life without parole. And that he was
9 eligible for parole after a period of 20 years. And they're
10 seeking a dismissal.

11 In Response, which was filed on April 3rd of 2025 --

12 (Pause.)

13 THE COURT: And I don't think I'm reading anything in the
14 defendant's response that contests the applicability of the
15 statute.

16 Am I incorrect, Ms. Blazer? You're arguing that he
17 should just be released because of a host of factors that have
18 taken place, subsequent to his conviction?

19 MS. BLAZER: Well, I think the argument, Your Honor, is
20 that -- you're right, in terms of how Aiken V. Byars is
21 framed, and how the statute, as of 1991 was framed, he is
22 parole eligible. And so the State's argument appears on its
23 face to have merit.

24 With that said, my argument rests on the notion of what a
25 de facto life sentence is, and the --

1 THE COURT: Because -- has he had parole hearings?

2 MS. BLAZER: Yes, ma'am. He's had seven.

3 THE COURT: How many --

4 He has had seven?

5 MS. BLAZER: Yes, ma'am.

6 THE COURT: When was his last parole hearing?

7 MS. BLAZER: March 12th.

8 THE COURT: And has the Parole Board in any way ruled
9 that he's ineligible for parole? Or have they -- has his
10 parole simply been denied based on --

11 MS. BLAZER: There is --

12 THE COURT: -- the factors that they apply?

13 MS. BLAZER: So there is a pro forma response that each
14 parolee receives, and there is no mechanism for the Parole
15 Board to say you are not eligible. They simply reject or
16 accept the parole.

17 THE COURT: Uh-huh.

18 MS. BLAZER: They -- he's certainly been given the parole
19 hearings, which reflects a belief by the lawyer at parole that
20 he is eligible to have a hearing.

21 THE COURT: Well, I think that, you know, laws cannot be
22 retroactive in their application if they enhance a penalty.
23 So they would have to apply the law that was in place at the
24 time he was convicted; correct?

25 MS. BLAZER: Right. Yes, ma'am.

1 THE COURT: Which made him parole eligible?

2 MS. BLAZER: That's right.

3 THE COURT: Okay. And so when is his next parole
4 hearing?

5 MS. BLAZER: Two years from this most recent one.

6 THE COURT: And so when was his most recent one?

7 MS. BLAZER: March 12th of this year.

8 THE COURT: So he had a parole hearing March 12th?

9 MS. BLAZER: Yes, ma'am.

10 THE COURT: And that was denied?

11 MS. BLAZER: Yes, ma'am.

12 (Pause.)

13 THE COURT: And he has been continuously incarcerated
14 since his conviction?

15 MS. BLAZER: Yes, ma'am. That's just shy of 34 years.

16 THE COURT: Okay. So I think from a procedural
17 standpoint, I need to hear from the State on their motion --

18 MS. BLAZER: Yes, ma'am.

19 THE COURT: -- to dismiss, and then I'll allow you to
20 respond.

21 Yes, sir.

22 MR. HAMPTON: Good morning, Your Honor.

23 THE COURT: Good morning.

24 MR. HAMPTON: May I approach? I have a copy of our
25 motion, as well as all of the case law that we have.

1 THE COURT: I have it.

2 MR. HAMPTON: Okay. Thank you.

3 Your Honor --

4 THE COURT: Yeah. I have it -- you mean -- you're
5 referring to your memo, correct?

6 MS. BLAZER: Yes. I just have a copy of all the case
7 laws.

8 THE COURT: Yeah. I have your memo. Yeah.

9 MR. HAMPTON: Okay. Good morning.

10 This is a -- this is regarding a murder which occurred in
11 1991. Mark Hamilton, along with three other co-defendants,
12 attacked the victim as he was walking in his own neighborhood
13 to his friend's house. And trial testimony in 1993 shows that
14 Mark Hamilton was an instigator in the incident.

15 As Your Honor has already previously stated, the Statute
16 in 1991 states a person who was convicted of or pleads guilty
17 to murder must be punished by death or by imprisonment for
18 life. It is not eligible for parole until the service of 20
19 years. As Your Honor stated previously, again, that penalty
20 has changed, however, the 1991 statute applies in this matter.

21 The defendant's Motion for Re-sentencing comprises from
22 his two filings in 2019 and 2023 on the basis of case law from
23 *Miller versus Alabama* and *Aiken V. Byars*. And these provided
24 protections for juvenile offenders and any possible violations
25 of the Eighth Amendment. And the Supreme Court of South

1 Carolina in Aiken laid out a five-factors test which could be
2 determined and see if their transient immaturity should be
3 considered to a sentence of life without the possibility of
4 parole. *Aiken versus Byars* also made the determination this
5 applied retroactively as well. *Miller versus Alabama*, from
6 the Supreme Court of the United States, was ruled in 2012;
7 Aiken versus Byars in 2014.

8 And then, subsequently, in 2016, *Montgomery versus*
9 *Louisiana* extended the analysis of *Miller* and has been upheld
10 in case law in the South Carolina Court of Appeals.

11 Your Honor, I would like to read a quote from *Montgomery*
12 *versus Louisiana*, which states:

13 "Giving Miller retroactive effect, moreover, does not
14 require states to relitigate sentences, let alone convictions.
15 In every case where a juvenile offender received mandatory
16 life without parole, the State may remedy a Miller violation
17 by permitting juvenile homicide offenders to be considered for
18 parole, rather than by re-sentencing them. Allowing those
19 offenders to be considered for parole ensures that juveniles
20 who crimes reflected only transient immaturity and who have
21 since matured, will not be forced to serve a disproportionate
22 sentence in violation of the Eighth Amendment. Extending
23 parole eligibility to juvenile offenders does not impose an
24 onerous burden on the states, nor does it disturb the finality
25 of state convictions. Those prisoners who have shown an

1 inability to reform will continue to serve life sentences.

2 The opportunity --"

3 THE COURT: But that's not the position South Carolina
4 has taken; is it? They've taken the position that everyone
5 who was convicted under the new version of the statute is
6 entitled to an *Aiken versus Byars* hearing.

7 MR. HAMPTON: That's correct, Your Honor.

8 THE COURT: Uh-huh.

9 MR. HAMPTON: And I was just reading that quote in
10 reference to defendants who were sentenced with life without
11 parole hearings and if they are given the opportunity for
12 parole, then it could be --

13 THE COURT: I think from a procedural standpoint and
14 common parlance, that boat has sailed. South Carolina Supreme
15 Court has made a decision: Everybody who was sentenced as a
16 juvenile to life without parole is entitled to an *Aiken versus*
17 *Byars* hearing.

18 MR. HAMPTON: That's correct. And it's -- it would be a
19 mandatory life without parole hearing.

20 The ruling from *Montgomery* has been applied by the courts
21 in South Carolina with some distinctions. And the Court of
22 Appeals in South Carolina ruled in *State V. Finley* that
23 although *Finley* received a mandatory life sentence for murder
24 as a juvenile offender, the circuit court sentence afforded
25 *Finley* parole eligibility after the service of 30 years

1 imprisonment. They were citing the 1992 Statute, which only
2 differs from the 1991 with a mitigating circumstance unrelated
3 to this motion.

4 Again, quoting Finley, "This sentence differs
5 significantly from those at issues in Graham, Miller, and
6 Byars, in which the juvenile offenders receive sentences of
7 life imprisonment without the possibility of parole."

8 In addition, Your Honor, South Carolina cases outlined in
9 the State's brief which include *State V. Spartan* in which Your
10 Honor's ruling was upheld, cited *State V. Finley*, the Court of
11 Appeals of South Carolina affirmed Your Honor's ruling. These
12 cases reach the same logical nexus, and that is, if a
13 defendant receives parole eligibility after a certain number
14 of years, then the defendant is not entitled to an Aiken
15 hearing.

16 As outlined in our State's motion to dismiss, Honor,
17 there are two major issues, really, regarding the defendant's
18 case today, in regards to the case law. Per the South
19 Carolina punishment for murder statute in 1991, the defendant
20 did not receive a mandatory life without parole sentence,
21 which does not make him eligible for an Aiken hearing. And
22 this is, of course, consistent with case law in the United
23 States and the Supreme Court of the United States. And even
24 if this motion was entertained that this defendant -- even if
25 the notion was entertained that this defendant received a

1 mandatory life without parole sentence, the defendant has been
2 given multiple opportunities in front of the Parole Board to
3 be considered for his release.

4 As defense counsel stated, the defendant has been given
5 seven parole hearings upon his parole eligibility, which began
6 in 2012, and with the last parole hearing, of course, taking
7 place on March 12th, which is the same date of the State
8 filing this Motion to Dismiss.

9 It's my belief that the South Carolina Department of
10 Probation has complied with the requirements of the law and
11 used the factors given to them to make a determination of the
12 defendant's potential release at each hearing.

13 Your Honor, just to summarize, it's the State's position
14 that even if the case law and the State's Motion to Dismiss
15 existed at the time that the defendant committed this crime,
16 the 1991 statute and sentencing scheme mandates the punishment
17 of murder -- the mandates of punishment would not afford the
18 defendant an Aiken hearing. Thank you.

19 THE COURT: You're welcome.

20 Ms. Blazer?

21 MS. BLAZER: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 MS. BLAZER: May it please the Court.

24 I think that the State -- I don't actually disagree with
25 a lot of the things that the State said, but I think that the

1 State is failing to engage with what I think is the central
2 question here, which is whether South Carolina's parole system
3 remedied the *Miller* issues, as contemplated by *Montgomery*,
4 which was decided two years after *Aiken versus Byars*.

5 So *Aiken versus Byars* was, you know, sort of progressive
6 from the State of South Carolina, because they did not wait
7 for the United States Supreme Court to determine the question
8 of retroactivity. The South Carolina Supreme Court said,
9 "It's clearly retroactive, and we need to get moving on this."

10 Later, *Miller versus Montgomery* was decided by the United
11 States Supreme Court and was responding to other states'
12 failure to make the recognition that *Aiken versus Byars* had
13 made. And I agree with the State that *Montgomery's* central
14 premise is that there are ways other than a complete
15 resentencing to give life to the premise of *Miller versus*
16 *Alabama*, and one of those ways is parole eligibility.

17 And on its face, it would appear that South Carolina has
18 a remedy for all of these people who were sentenced as
19 children to life with -- to life in prison, because they are
20 parole eligible if they were sentenced prior to truth in
21 sentencing. But the reality is, that the South Carolina PPP
22 itself has told courts of this -- the Court of Appeals as
23 recently as 2023, that they are not obligated to give life to
24 *Miller versus Alabama*. That's a sentencing issue.

25 And that is why my motion -- or my Response to the

1 State's Motion -- relies heavily on *Buchanan versus State*
2 *Department of Probation*, 442 S.C. 393. Mr. Buchanan sought
3 ALC review of his denial of parole. I believe that Mr.
4 Buchanan was up for his 18th time being considered for parole
5 at the time that he sought ALC review. ALC review is
6 constrained by the Rules of Administrative Law, and the ALC
7 court found that the Parole Board, acting under the
8 regulations applicable to the Parole Board, had done its job,
9 had given life to the regulations and the rules set forth by
10 the South Carolina Department of Probation Pardon and Parole
11 and was therefore not subject to reversal. The South Carolina
12 Court of Appeals, when confronted with the -- Buchanan's
13 appeal from the ALC ,agreed but held -- or I don't guess this
14 isn't exactly a holding, but an observation that they made.

15 We are concerned regarding the perfunctory manner in
16 which Buchanan's request for parole was denied. Although
17 Buchanan and other juveniles similarly situated are
18 technically eligible for parole, the continual denial of
19 parole based on the same factors, all unchangeable and related
20 to their offenses, gives no guidance to these inmates about
21 what can be done to improve their chances of parole, and is,
22 in essence, equivalent to being ineligible for parole.

23 Additionally, I think it's important -- and I'll grant
24 that the State did quote the whole portion of *Montgomery*, that
25 I think is important, but I want to highlight that *Montgomery*

1 says that a parole system that allows a person sentenced to
2 life in prison as a juvenile to be eligible for release based
3 on evidence that they have escaped the transient immaturity of
4 youth, is not a premise contained in the principles that the
5 Parole Board in South Carolina is governed by. Those
6 principles are repeated on pages six and seven of my Motion,
7 and nowhere within the factors that the Board may consider in
8 determining whether to grant parole is anything related to the
9 transient immaturity of youth.

10 And so while we do not contest that Mr. Hamilton has been
11 afforded seven hearings to establish whether he can be
12 released, our contention is that those hearings, by definition
13 of the Parole Board's applicable standard, cannot -- provide
14 the Parole Board no opportunity to consider exactly those
15 issues that *Miller versus Alabama* said were so important.

16 THE COURT: But wouldn't he have to challenge that to the
17 administrative law court?

18 MS. BLAZER: Well, we --

19 THE COURT: Isn't there a mechanism for that?

20 THE COURT: No. No. I don't believe that the -- I
21 mean, because I think Buchanan shows that you can't challenge
22 the way that the -- through ALC, the way that the PPP
23 regulations are set forth. You know, that's the sort of
24 premise of administrative law, is that you've got to trust the
25 administrative board to do their jobs effectively. And I

1 think what the issue is, is if you look at the statutes
2 governing the Parole Board, PPP has done what they're supposed
3 to do because they've given life to what the statutes say
4 they're supposed to do. And that's where this donut hole that
5 Mr. Hamilton falls into is created. PPP is not-- the Parole
6 Board is not acting in opposition to its own statute that
7 creates it. But South Carolina, by having that as the
8 standard for PPP, has created only the illusion of a parole
9 system that would solve --

10 THE COURT: But there are people who have gotten parole
11 from murder sentences.

12 MS. BLAZER: Yes, ma'am.

13 THE COURT: Lots of them.

14 MS. BLAZER: Yes, ma'am.

15 THE COURT: Uh-huh.

16 MS. BLAZER: Yes, ma'am. And --

17 THE COURT: But that would seem to preempt your argument
18 that parole under these -- this instance, is simply
19 perfunctory, it's just going through the motions. I don't
20 think that's what the Parole Board does. I think they have a
21 charge that's been given to them by the legislature. And when
22 I say "charge," I mean responsibility.

23 MS. BLAZER: Uh-huh.

24 THE COURT: They have a set of guidelines that they
25 follow, and I think they take that responsibility very

1 seriously. And I'm aware -- because they send me notices.

2 MS. BLAZER: Yes, ma'am.

3 THE COURT: There are people that they parole from --

4 MS. BLAZER: Yes, ma'am.

5 THE COURT: -- what we would consider significant,
6 serious, violent offenses. So people get parole, you know,
7 all the time, from murder sentences who were convicted under
8 the old version of the statute. Because the way the old
9 statute was written was there was no -- you know, when the
10 statute was modified, it created a base of 30 years up to
11 life, with discretion in between that range. The old statute
12 was life or death.

13 MS. BLAZER: Yes, ma'am.

14 THE COURT: There was no in-between.

15 MS. BLAZER: Yes, ma'am.

16 THE COURT: But it did give you the possibility of parole
17 after 20 years.

18 I guess my -- what authority does this Court have over
19 Parole Board or any -- to consider the constitutionality,
20 because that's basically what you're raising --

21 MS. BLAZER: Yes, ma'am.

22 THE COURT: -- of the parameters of the actions of a
23 Parole Board? Isn't there another mechanism for that to be
24 challenged? I don't know that this Court has the authority to
25 look at what a Parole Board does or the parameters of their

1 decisions or the factors they employ. And I have to admit,
2 I'm remiss as to exactly every category they consider, but I
3 would imagine that many of the factors that we would find in
4 *Aiken versus Byars* and this progeny are considered by a Parole
5 Board. Maybe not in the same verbiage, but I'm certain they
6 probably consider it.

7 MS. BLAZER: I mean, I have all the -- 16 of them listed
8 in my brief --

9 THE COURT: You do.

10 MS. BLAZER: -- and I don't think that they align with
11 *Aiken V. Byars* or *Miller versus Alabama*.

12 But to answer your question about this Court's authority
13 over the Parole Board, I agree with you. You do not have the
14 authority, I don't believe, to direct PPP to change its --

15 THE COURT: And does he have a procedural mechanism to
16 challenge that? Can't you appeal -- I mean, like if you're
17 denied parole, what is the next --

18 MS. BLAZER: That would be the ALC. And that was the --

19 THE COURT: That's what I thought.

20 MS. BLAZER: Yes, ma'am. And that was the mechanism that
21 *Buchanan* sought to use in the Court of Appeals. And the Court
22 of Appeals found that it was constrained by the limitations of
23 administrative law to say, we can't give you any relief, but
24 we're really concerned about what's happening here.

25 THE COURT: So the remedy would be with the legislature,

1 who promulgates the regulations?

2 MS. BLAZER: Well --

3 THE COURT: Or does the legislature delegate that
4 authority to SCDPPS?

5 MS. BLAZER: I believe that's delegated to DPPS.

6 THE COURT: But there's a mechanism to --

7 MS. BLAZER: Right. But --

8 THE COURT: -- challenge that, right?

9 MS. BLAZER: The -- no --

10 THE COURT: And has exercised that?

11 MS. BLAZER: An ALC challenge?

12 THE COURT: Uh-huh.

13 MS. BLAZER: No, ma'am.

14 THE COURT: And, why? I'm curious.

15 MS. BLAZER: Because Buchanan would suggest that it's
16 for -- closed and was decided in 2023 right before his most
17 recent parole.

18 I agree with you that the legislature could solve this
19 problem tomorrow. I think when the legislature has chosen not
20 to solve the problem, this Court does have the authority to
21 recognize that there is a constitutional deficit here. It
22 does not require the Court to direct PPP to change its
23 approach, it simply -- the Constitution and this Court's
24 inherent authority allows you to recognize that the systems in
25 place --

1 THE COURT: Why wouldn't number 7 embrace the Aiken
2 factors, which is the inmate's physical, mental, and emotional
3 health?

4 MS. BLAZER: Because they don't reflect the question of
5 the inmate's physical, mental and emotional health or --

6 THE COURT: "The inmate's understanding of the cause of
7 his or her past criminal conduct."

8 MS. BLAZER: None of that goes to what his -- the
9 state -- his state of existence and being were, as of 1991 as
10 a child, which is what *Aiken V. Byars* and *Aiken V. Byars'*
11 *Resentencing* is focused on. They don't focus on -- they
12 certainly -- a factor at sentencing, when somebody is
13 resentenced, 20, 30, 40 years after their initial prosecution,
14 there is no doubt that a court weighs --

15 THE COURT: Why wouldn't number 15 embrace that, which is
16 the Actuarial Risk and Needs Assessment outlined in Section
17 2421-10(f)(1), which evaluates based on criminal involvement,
18 relationships/lifestyle, personality/attitudes, family, social
19 exclusion, and mental health. Would that not be --

20 MS. BLAZER: I --

21 THE COURT: a retroactive look at --

22 MS. BLAZER: No, ma'am.

23 THE COURT: Because when you're looking at an actuarial
24 table, you're looking at propensity basis.

25 MS. BLAZER: Right. But that's forward-looking

1 propensity, not going back to 1991 and asking --

2 THE COURT: Well, he couldn't have criminal involvement
3 post-actively; he's been in jail. So why would that not
4 encompass --

5 MS. BLAZER: But it is a prospective look at what his
6 actuarial risk of committing new crime is based on these other
7 factors, as they exist today, not as they existed in 1991.
8 It -- as I mentioned in my brief --

9 THE COURT: And then it has a catch-all: "Other factors
10 considered relevant in a particular case by the board."

11 So why wouldn't that catch-all be encompassed --

12 MS. BLAZER: We have no idea.

13 THE COURT: -- any of the Aiken factors?

14 MS. BLAZER: We have no idea what was -- I mean --

15 THE COURT: But he's free to argue that, isn't he, to
16 them, that --

17 MS. BLAZER: And --

18 THE COURT: That at the time of my conviction, I was
19 particular age, and --

20 MS. BLAZER: Yes.

21 THE COURT: -- this falls under the catch-all. And I
22 would, you know --

23 MS. BLAZER: Yes.

24 THE COURT: -- and basically --

25 MS. BLAZER: And 17 --

1 THE COURT: -- fall on my sword and ask you to consider
2 these factors.

3 MS. BLAZER: Yes. And seven times, the Parole Board has
4 said that the underlying offense is the number one reason that
5 they're rejecting his application. There's a -- again,
6 there's a -- as I mentioned in my Response, there's -- I
7 believe that I'm correct that there are six potential factors
8 that the -- or choices that the Parole Board has to choose
9 from in this form letter that they send out to people when
10 they are denied parole, and -- or granted it, I suppose -- and
11 of those six, my argument is that at least three of them
12 are -- make reference -- and this is found on page 8 of my
13 briefing -- make reference to factors that are immutable as of
14 the time of the crime. So the nature and seriousness of the
15 current offense, the indication of violence in this or a
16 previous offense, and the use of a deadly weapon in this or a
17 previous offense.

18 THE COURT: You said page 8 of your Response?

19 MS. BLAZER: Yes, ma'am. Bottom of the second -- the
20 first paragraph on page 8.

21 (Pause.)

22 THE COURT: But the fact that they selected that doesn't
23 necessarily mean that they did not give weight to the other
24 catch-all factors you all argued in balancing their decision.
25 That doesn't --

1 MS. BLAZER: It doesn't mean that they didn't, but we
2 have no evidence that they did.

3 THE COURT: But, I mean -- but they don't have to
4 articulate that. I --

5 MS. BLAZER: But if they --

6 THE COURT: It would seem to me, if you argued something,
7 that they considered it.

8 MS. BLAZER: I don't know, though.

9 THE COURT: And whatever they -- whatever decision they
10 made, they felt that those factors were outweighed by the
11 others.

12 MS. BLAZER: I don't -- you know, I don't believe that
13 you can assume that because I said that they should think
14 about something that they did. I wish that that were true,
15 but I don't think that it is.

16 THE COURT: I find them -- you know, and I don't -- can't
17 say that I know any members personally. I've known people in
18 the past, in my -- before I was on the Court -- that served on
19 the Parole Board, and I found them to be very thoughtful
20 individuals who really took their responsibility very
21 seriously and did not act in what we would consider a knee-
22 jerk way. I don't think they perceive their duty as
23 perfunctory. And I found that none of them were swayed by
24 public opinion. But again, this was before I was on the
25 bench. I can't say that I've known anybody, you know, since

1 then or that I've had any interaction. Like I said, I just
2 get notices --

3 MS. BLAZER: Right.

4 THE COURT: -- that people are up for parole, and they
5 ask if I have an opinion or -- and I never do.

6 MS. BLAZER: And --

7 THE COURT: Because I feel like that's their function,
8 and I just don't take a position on it. I feel like that --

9 MS. BLAZER: Yes, ma'am.

10 THE COURT: -- in most instances, the jury's already
11 spoken, or if it's a guilty plea, I've already done what I
12 think is appropriate. And -- well, in both cases, I've
13 already done what I think is appropriate, based on the
14 totality of what's been presented to the Court. And then it's
15 in their --

16 MS. BLAZER: Right. And --

17 THE COURT: -- court, so to speak, to, you know, look at
18 all the other factors and make those decisions.

19 MS. BLAZER: And as I said earlier, I am not suggesting
20 that the Board acted outside of the boundaries of the
21 regulations set for them by PPP. In fact, what I am arguing
22 is that the Board's own lawyer, who argued *Buchanan* to the
23 Court of Appeals, argued, "The change in the law as it relates
24 to juvenile sentencing has not been extended beyond sentencing
25 in South Carolina," beyond sentencing, "maintaining *Miller* and

1 Aiken require the factors of youth be considered only by the
2 sentencing court, not by the Board."

3 And I think you -- the Court is -- needs to --

4 THE COURT: Did you actually go to his last parole --

5 MS. BLAZER: Yes, ma'am. I was present.

6 THE COURT: And you argued under the catch-all his age at
7 the time of the offense?

8 MS. BLAZER: I did.

9 THE COURT: What else did you argue to them?

10 MS. BLAZER: I argued all of those -- the same Miller
11 juvenility factors that I argued in this Motion.

12 THE COURT: And they didn't tell you it wasn't
13 applicable, and they didn't --

14 MS. BLAZER: No, ma'am.

15 THE COURT: -- have to consider it, and you couldn't
16 argue on his behalf?

17 MS. BLAZER: No. And in fairness, again, to the Board,
18 the structure of parole hearings is not like this. It is not
19 a completely open hearing. Victims are sequestered from
20 defendants. And the portion of the event where the Board
21 discusses their choice is not something that we're privy to,
22 the portion of --

23 THE COURT: Well, that's no different than a jury.
24 You're not --

25 MS. BLAZER: Right.

1 THE COURT: privy --

2 MS. BLAZER: Right.

3 THE COURT: -- I mean, and you're not privy to what the
4 Court's thinking either.

5 MS. BLAZER: Right. But all I'm saying is that, to the
6 extent that there wasn't -- would be any way of knowing what
7 the board's thinking was, that is not something that a
8 defendant is privy to when they appear before the Parole
9 Board.

10 And I will confess I've only attended three parole
11 hearings, so I am not a parole expert. But in all of those
12 cases, my experience is, you're sort of in a little black hole
13 talking to a group of people. You're not even in the same
14 room with them. You're excused, and then sometime later, you
15 receive a pro forma piece of paper that tells you what the
16 outcome of that hearing has been.

17 THE COURT: Has that been since COVID that that's been
18 like that?

19 MS. BLAZER: No. Before that.

20 THE COURT: Oh. Okay.

21 MS. BLAZER: Yeah. Like, the only one pre-COVID that I
22 went to was done up off of Grey --

23 THE COURT: Greystone.

24 MS. BLAZER: Is it Greystoke? Uh-huh. Greystone.
25 Greystoke is the -- Tarzan.

1 THE COURT: Greystone Boulevard.

2 MS. BLAZER: Greystone Boulevard. Yes, ma'am.

3 So the only one like that that I went to -- yes, there
4 were sequestered rooms. We appeared -- and, I believe, via a
5 closed-circuit television, we spoke to the Parole Board. And
6 it used to be that the defendant had -- if you -- if the
7 defendant was going to be represented by counsel, counsel had
8 had to actually travel to the prison facility where the person
9 was and appear closed-circuit there. They stopped -- they
10 slowly stopped doing that and allowed us to appear in -- at
11 Greystone. And then post-COVID, they've allowed us to do it
12 in this WebEx format.

13 But again, with no -- I'm not criticizing the Parole
14 Board --

15 THE COURT: No. I didn't take it that way.

16 MS. BLAZER: -- members.

17 THE COURT: What I'm -- my inquiry is more about the
18 opportunity under the catch-all to -- because I think all
19 statutes have catch-alls -- well, statutes that have catch-
20 alls, they have them for a reason. That means, in other
21 words, all other stuff we haven't thought about, here's your
22 opportunity to present anything else you think could be
23 relevant to our determination.

24 And I'm not certain that I'm convinced that, because they
25 don't mention it, that they didn't consider it, and that he

1 didn't have the opportunity to present it. Because I know
2 you're a zealous advocate. And I'm certain that you presented
3 all that to them.

4 MS. BLAZER: And the --

5 THE COURT: And just because they made a decision that
6 was, sort of, not the desired result --

7 MS. BLAZER: Sure.

8 THE COURT: -- I don't think that means that they didn't
9 consider it.

10 MS. BLAZER: I agree that it doesn't mean that they
11 didn't. I -- you and I are in agreement about that. And, I
12 guess -- I did not brief this, but I'll say that, you know,
13 in -- as you know, I spent some time as a Federal Public
14 Defender. And there -- one key difference about sentencing
15 law in federal court is that, in federal court, we were
16 governed by 18 U.S.C. Section 3553(a).

17 THE COURT: Yeah. The guidelines.

18 MS. BLAZER: Yeah. Well, not so much the guidelines.
19 The part that I'm focused on is 3553(a), which sets forth the
20 factors that every sentencing judge is required to consider,
21 and not only to consider, but to express on the record how
22 they considered. And the purpose of that is to ensure that
23 everybody knows why something happened. And so, again, it's
24 not the fault of the Parole Board that that is not how they
25 are structured. But in the absence --

1 THE COURT: But is any parole board structured that way?

2 MS. BLAZER: Oh, I don't know. I've not done any 50-
3 state analysis of what other Parole Boards do, but I think in
4 the absence of a -- either a set of factors that mimic clearly
5 the Miller factors, or some greater transparency about what is
6 considered and either accepted or rejected as an argument in
7 favor of parole, this Court is empowered to determine that
8 this system, as it presently exists, has not met Mr.
9 Hamilton's constitutionally promised right of a fair
10 opportunity to be treated as the juvenile he was in 1991.

11 THE COURT: What happened with the other three -- his
12 other three co-defendants?

13 MS. BLAZER: Yes, ma'am. Mr. Zellers was 14 at the time
14 of the offense. He was waived up by Judge Mallard, I believe,
15 as was -- not Mr. Sampson.

16 What was your --

17 THE DEFENDANT: Darrell Edwards.

18 So Mr. Edwards and Mr. Zellers were 14 and 16,
19 respectively. Mr. Hamilton was 17, and Mr. Sampson was 19.
20 Mr. Zellers and Mr. Edwards were waved up. Mr. Zellers was
21 ultimately found not guilty. Mr. Edwards was permitted to
22 plead to voluntary manslaughter and has since been released
23 from prison.

24 THE COURT: What was his sentence?

25 THE DEFENDANT: Thirty.

1 MS. BLAZER: It -- I believe it was 30. Yes, ma'am.

2 THE COURT: And so he's already maxed out --

3 MS. BLAZER: Yes, ma'am.

4 THE COURT: -- and he's been released?

5 MS. BLAZER: Yes, ma'am.

6 And then Mr. Sampson had been -- both Mr. Edwards and Mr.
7 Sampson had been threatened with the death penalty, and both
8 pled.

9 THE COURT: Well, that's --

10 MS. BLAZER: No.

11 THE COURT: That happens.

12 MS. BLAZER: It's just as a fact for the record.

13 THE COURT: Well, it's not a threat. It's just reality.

14 This is what we're going to -- and under the under the laws
15 that existed then, there certainly were statutory, aggravating
16 circumstances --

17 MS. BLAZER: Right.

18 THE COURT: -- which, they could have pursued it.

19 MS. BLAZER: Right. You know, what would have been
20 terribly unfortunate for them, is that it would be another --
21 I don't know, 16 years before the United --

22 THE COURT: Or 20.

23 MS. BLAZER: -- States Supreme Court had determined that
24 that was unconstitutional, as to both -- as to, at least, Mr.
25 Edwards.

1 THE COURT: But it probably would have happened. I mean,
2 as we know, life sentences -- I mean, not life sentences --
3 executions in South Carolina take at least 20 years.

4 MS. BLAZER: And I'm not --

5 THE COURT: I've sentenced two people to death, and they
6 have -- they aren't close to reaching any -- I mean --

7 MS. BLAZER: Well, that's --

8 THE COURT: One of them was --

9 MS. BLAZER: -- certainly true these days.

10 THE COURT: One of them was --

11 Oh, it's true. It was true when I was a law clerk. One
12 of the people Judge Field sentenced just got executed, maybe
13 two years ago. And he's been gone now a year. He was 103
14 years old. And he sentenced him before he -- long before he
15 ever retired at 72. It takes a long time. So the law may
16 have changed in in that interim.

17 MS. BLAZER: And that's really, sort of, neither here nor
18 there to my argument. But --

19 THE COURT: Well, but --

20 MS. BLAZER: You asked what happened to them. Mr.
21 Sampson ultimately pled to murder.

22 THE COURT: So there were -- because let me keep track.

23 MS. BLAZER: Yes, ma'am.

24 THE COURT: I thought there were four total.

25 MS. BLAZER: Yes.

1 THE COURT: So we have Mr. Hamilton.

2 MS. BLAZER: Mr. Hamilton was --

3 THE COURT: Mr. Edwards --

4 MS. BLAZER: Mr. Edwards was 16. He --

5 THE COURT: Mr. Zellars, who was 14, who was found not
6 guilty.

7 MS. BLAZER: Yes. And Mr. Sampson, who pled -- who was
8 19, and pled to life. He and Mr. Hamilton have their parole
9 sentences at the same time every two years.

10 THE COURT: So Mr. Sampson is likewise eligible for
11 parole?

12 MS. BLAZER: He is also eligible for parole.

13 THE COURT: And has he ever been granted -- well --

14 MS. BLAZER: No.

15 THE COURT: -- I guess not.

16 MS. BLAZER: No, ma'am.

17 THE COURT: Because you said he's still --

18 MS. BLAZER: No, ma'am.

19 THE COURT: And I would assume -- were deals offered to
20 everybody?

21 MS. BLAZER: I -- I mean, yes.

22 THE COURT: I'm just curious.

23 MS. BLAZER: Yes. Yes. In the sense that I believe Mr.
24 Sampson's deal was to plead to life.

25 THE COURT: Uh-huh.

1 MS. BLAZER: And --

2 THE COURT: Because I would assume they felt he was most
3 culpable.

4 MS. BLAZER: Yes. And at his plea hearing, he accepted
5 the greatest level of culpability.

6 And I think that Mr. Edwards was offered the voluntary
7 offer. And my understanding from John Crumrine, who
8 represented Mr. Hamilton, is that there was an offer made to
9 him. But Mr. Crumrine is in the process of retiring and did
10 not still have his records from all of that, so we couldn't go
11 back through and recreate.

12 THE COURT: Which is reasonable. I mean, most people --

13 MS. BLAZER: Yeah.

14 THE COURT: -- keep their records for about seven years,
15 and then they start purging. You just don't have the room to
16 keep it.

17 And I would assume, just based on experience, that Mr.
18 Edwards -- what -- they may have considered him less culpable
19 -- not least, but less. And he probably might have been
20 cooperating --

21 MS. BLAZER: That may be true.

22 THE COURT: -- to receive that type of a plea.

23 MS. BLAZER: That may be true, Your Honor.

24 THE COURT: Uh-huh. And then Mr. Zellers, who was 14 and
25 waved up by Judge Mallard, was found not guilty?

1 MS. BLAZER: Yes, ma'am. He was represented by Bruce
2 Durant, of all people.

3 THE COURT: That must have been before Bruce went over to
4 the Solicitor's Office.

5 MS. BLAZER: It must have been for the five minutes Bruce
6 was not being prosecutor.

7 THE COURT: Alrighty. So then what -- I am assuming,
8 though, that Mr. Zellers and Mr. Hamilton were not tried
9 together --

10 MS. BLAZER: They were not.

11 THE COURT: -- because they had separate trials.

12 MS. BLAZER: They were not.

13 THE COURT: Yeah. Okay. All right. You may continue.
14 Anything further you'd like to share with the Court?

15 MS. BLAZER: I -- let me make sure I've covered all the
16 things I wanted to cover.

17 (Pause.)

18 MS. BLAZER: Yeah. I think I just want to reiterate that
19 our argument is -- acknowledges many of the legal strictures
20 that the State's motion put forth, but suggest to this Court
21 that you have the authority to find that, without being --
22 without exerting control over the Parole Board, that Mr.
23 Hamilton should be resentenced, because the existing structure
24 of the Parole Board does not adhere to the premise in
25 *Montgomery versus Louisiana* of creating a system where a child

1 sentenced to life has the opportunity to be considered for
2 parole when that child, as an adult, can show that his crime
3 was the product of transient immaturity.

4 THE COURT: Would the State like to respond?

5 MR. HAMPTON: Yes. Briefly, Your Honor.

6 THE COURT: Take your time.

7 MR. HAMPTON: Just for the simple fact that this
8 defendant is not entitled to an Aiken hearing basis on the
9 1991 statute and case law. It was not a true life sentence.

10 And also, to bring up again the case of *State V. Finlay*,
11 of what Your Honor cited and a ruling in *State V. Sparkman*.
12 It was -- there are some similarities between that case and
13 the one we have today. It was a 1992 statute. The defendant
14 was 17 at the time, and he was given 30 years, and the
15 assumption that an aggravating circumstance was found, and the
16 Court denied him a -- or did not say it was a violation of
17 *Miller* and the Eighth Amendment.

18 THE COURT: I need you to address, just for the
19 completion of the record, the unique -- I need you to address
20 Ms. Blazer's argument that the parole system is perfunctory,
21 that -- my words not hers -- that is merely -- it is really
22 not giving Mr. Hamilton a meaningful opportunity at parole.
23 Which, I really don't think I have any jurisdiction over that
24 process. The legislature, in their wisdom, has delegated that
25 to the Department of Probation, Department of Parole, and has

1 allowed them that regulatory authority.

2 But what she is arguing is that -- I think I'm already
3 standing, basically, which is arguing about. I need you to
4 address that for the completeness of the record.

5 MR. HAMPTON: Yes, Your Honor.

6 In response to defense counsel's argument and speaking
7 about *Buchanan versus South Carolina Department of Probation*,
8 I believe this was touched on briefly, but I think the most
9 important quote in this case is at the end of Subsection (a),
10 that, essentially, after they express their concerns, they
11 then state in their Determination, "Our role is one that is
12 limited to operating within the framework set by statutory law
13 and by our Supreme Court's precedence. It may well be good
14 policy for the legislature to review and to revise the parole
15 system to assure the factors of youth are a part of
16 considering parole in these cases, rather than permitting the
17 seemingly perfunctory review now standardly given, but that is
18 the legislature's decision, not ours."

19 Your Honor, I think it's clear from this case that the
20 Court of Appeals does have concern but they make it clear that
21 it is up to the legislature. And just to go back on our --
22 the previous position of -- the current position of the State,
23 that this person is not entitled to an Aiken hearing which --
24 and my understanding is handled by the Courts, essentially
25 does not provide him -- would not allow him opportunity to be

1 extended these factors unless the legislature did so.

2 THE COURT: Okay. Now, if I were to -- because I need to
3 think a little bit. If I were to deny the motion, are there
4 witnesses you would want to present?

5 MS. BLAZER: If you were to deny the State's motion?

6 THE COURT: Uh-huh.

7 MS. BLAZER: No. In speaking to Mr. Hamilton, he
8 expressed to me that he has put his family through more in the
9 last 34 years than he would like to, and he has asked me not
10 to call any of them as witnesses. So he will be the only
11 person present.

12 THE COURT: So why don't we just, in the interest of time
13 and not having him transported again, why don't we just play
14 it out. And then if I grant the State's motion, no harm, no
15 foul.

16 MS. BLAZER: I --

17 THE COURT: If I grant your motion then --

18 MS. BLAZER: So --

19 THE COURT: -- then we won't have to do it twice.

20 MS. BLAZER: I am not -- you're going to be shocked to
21 know, I'm not comfortable with that.

22 THE COURT: I don't think you really have an option.

23 MS. BLAZER: I understand, but I'm going to --

24 THE COURT: Yeah.

25 MS. BLAZER: But I'd like to express why I'm not

1 comfortable with that.

2 THE COURT: I'm listening.

3 MS. BLAZER: Mr. Hamilton and I have discussed the --
4 again, his decision not to have his family appear. But in
5 anticipation of the Court's decision in this case, I have not
6 sought a psychological evaluation yet, because it would have
7 been fruitless if this Court was going to deny his entitlement
8 to a hearing. I think we need an opportunity to seek that if
9 the Court is going to set another hearing, because I do think
10 that there are some --

11 THE COURT: Well, you -- we can always supplement the
12 record. You can always have that done subsequently and then
13 have that person testify.

14 MS. BLAZER: Well, I think he would still have to be
15 transported for that done that.

16 THE COURT: It doesn't matter.

17 MS. BLAZER: Okay. Well, I -- you're -- what the
18 Court's --

19 THE COURT: But then we'd be -- I don't -- it'd take a
20 whole lot less time just to hear from the psychologist than
21 to --

22 MS. BLAZER: If the Court is --

23 THE COURT: -- or a psychiatrist, than to hear --

24 MS. BLAZER: Sure. And if the Court is inclined to hear
25 argument on sentencing but also supplement the record in the

1 event of a ruling in our favor --

2 THE COURT: Yeah. I'm always open to that.

3 MS. BLAZER: -- that -- I would be comfortable with that.

4 THE COURT: Yeah. Uh-huh.

5 So you're saying the only witness you would have, would
6 be your client and then a forensic psychologist or
7 psychiatrist -- well, not forensic psychologist, but a
8 forensic psychiatrist or a psychologist to supplement the
9 record?

10 MS. BLAZER: Yes, ma'am.

11 THE COURT: Okay. I could live with that.

12 Does State have any exception?

13 MS. SHEALY: I just want to make sure I understand. Are
14 we talking about putting him up for a *Aiken versus Byars*
15 hearing?

16 MS. BLAZER: If he was just --

17 MS. SHEALY: Is that the purpose --

18 MS. BLAZER: -- to address the Court?

19 Yes. He's here to address the Court as to -- if the
20 Court is inclined to push forward with a, sort of, conditional
21 sentencing hearing, based on not --

22 THE COURT: I just think it's time saving. We've
23 allocated the time. It's no prejudice to the State if I grant
24 your motion.

25 MS. SHEALY: Yes. But --

1 THE COURT: But if I don't, then I've saved the time and
2 taken the testimony, and then I'm halfway to where I need to
3 be.

4 MS. SHEALY: Okay. I -- let me ask it this way, are you
5 intending to offer features of his youth through him? Are you
6 going -- are you intending to --

7 MS. BLAZER: I would need to supplement the record after
8 today and seek a 608 Order for the purpose of having him
9 evaluated by a psychologist or psychiatrist who could speak to
10 those features, as is commonplace in *Aiken V. Byars* cases.

11 MS. SHEALY: So I'm just a little bit confused about what
12 the purpose is --

13 THE COURT: I'm just giving her the opportunity to call
14 any witnesses she would have called had we gone forward with
15 the full *Aiken versus Byars*. If she is not -- if she has not
16 had the psychological evaluation, we would just supplement the
17 record with that if it became necessary. But if she had
18 anybody here present today, that she would have called had
19 your motion been denied, I don't see any problem with taking
20 that witness testimony is what I'm saying.

21 MS. SHEALY: Can you --

22 THE COURT: So whomever she would have called.

23 MS. SHEALY: That would be the only person that you would
24 intend to put up today, or you're not going to put him up
25 today?

1 MS. BLAZER: Well, I think the Court would want me to
2 have him address the Court --

3 THE COURT: Because he's here.

4 MS. BLAZER: -- today, because he's here.

5 There -- you know, candidly, Your Honor, when we had a
6 telephone conference on the 11th, I think.

7 THE COURT: I don't remember. All my days run together.

8 MS. BLAZER: I don't remember when the date was.

9 THE COURT: I'm sorry. I've got a lot on my plate.

10 MS. BLAZER: Same, Your Honor.

11 If, at the time, I did intend to call John Crumrine and
12 David Schwacke.

13 THE COURT: Uh-huh.

14 MS. BLAZER: David Schwacke was actually the prosecutor
15 who handled the trial, as you've seen the trial testimony.

16 THE COURT: Uh-huh.

17 MS. BLAZER: And as you know, retired many years later as
18 a public defender. And he and I had spoken at some length
19 about this matter. And he allowed me to present a statement
20 on his behalf in my -- in what I gave to the Parole Board.
21 But without invading Mr. Schwacke's privacy, I am not
22 comfortable asking him to testify, given his health issues.

23 THE COURT: Uh-huh.

24 MS. BLAZER: So the only other ask I would make is if I
25 might be able to supplement the record with an affidavit from

1 Mr. Schwacke?

2 THE COURT: I think you're going to have to have
3 testimony. Because they --

4 MS. BLAZER: Will the Court --

5 THE COURT: -- have to be able to cross-examine him.

6 MS. BLAZER: And I expected that would be your answer.
7 If that is going to be necessary, may I supplement it -- at
8 the time that we do the psychiatrist, may I bring Mr. Schwacke
9 for that purpose? He -- I anticipate he will articulate about
10 two sentences.

11 THE COURT: And then would the State be calling any
12 witnesses? Or the State just merely want to cross-examine the
13 witnesses presented by Mr. Hamilton?

14 MS. SHEALY: We would definitely want to cross-examine
15 the witnesses. We may also -- depending upon what the
16 testimony is going to be, will we be receiving a report then?
17 Or you're going to --

18 MS. BLAZER: Yeah.

19 MS. SHEALY: -- have us evaluate it?

20 MS. BLAZER: Yeah.

21 MS. SHEALY: So I can answer that better, Your Honor --

22 THE COURT: Are you going to need to get him somebody
23 on -- are you going to need to retain an expert?

24 MR. HAMPTON: Potentially.

25 THE COURT: That's what -- yeah, that's what my next

1 question was.

2 MS. SHEALY: Yes.

3 MS. BLAZER: And, you know, Your Honor, that's -- the
4 only sort of time line question I would have. I don't -- as
5 you know, OID does not have endless sums of money, and I would
6 not --

7 THE COURT: Well, you know I'm the biggest steward of
8 their fund.

9 MS. BLAZER: I'm painfully aware, Your Honor.

10 THE COURT: So you're preaching to the choir.

11 MS. BLAZER: I'm painfully aware.

12 THE COURT: Yeah.

13 MS. BLAZER: And so I would not want --

14 THE COURT: It's limited, yeah, but I mean, I think we're
15 probably looking at -- I mean, we have people who -- that's
16 their niche. They do Aiken versus Byars --

17 MS. BLAZER: Yes. And unfortunately --

18 THE COURT: And how much are those? I don't remember.

19 MS. BLAZER: Very expensive. Mr. --

20 THE COURT: That's what I thought. Yeah.

21 MS. BLAZER: Dr. Knight, who is the, sort of, gold
22 standard of these evaluations, is extremely expensive because
23 she does an extremely detailed and thorough investigation that
24 goes beyond merely interviewing. But it is a --

25 THE COURT: Who else does some?

1 MS. BLAZER: I'm not familiar with anybody who does them
2 at -- with her --- with the level of quality she does. And in
3 fact, I don't regularly engage her services in other cases,
4 because she's more thorough than I usually need. But this is
5 exactly the kind of case that, if we were going to proceed to
6 a sentencing, her level of attention to detail is necessary.

7 THE COURT: Because really, now that I through it, the
8 other -- let's see. I hadn't done a Aiken versus Byars in a
9 while, but if I'm relying on my recollection, it seems that
10 who we usually rely on is that evaluation is the testimony you
11 really look to when you're making an assessment of the
12 factors. I don't know that a defendant's testimony is
13 particularly useful for that purpose.

14 MS. BLAZER: No, I mean his, his articulation would be
15 similar to what he would have argued. You know, he did not
16 speak at his sentencing. This is more akin to he's present to
17 speak as he would have at a sentencing, not to argue --

18 THE COURT: But it's unlikely that he --

19 MS. BLAZER: -- I was 17, I was this, I was that.

20 THE COURT: Yeah. It's unlikely he would have spoken at
21 his sentencing.

22 MS. BLAZER: Right.

23 THE COURT: I don't know too many people that speak at
24 their sentencing, because usually the lawyers advise them not
25 to.

1 MS. BLAZER: At trial. That's true, Your Honor.

2 THE COURT: Yeah.

3 MS. BLAZER: But --

4 THE COURT: Well, even at a plea I rarely have people
5 speak on their own behalf. I don't know. Yes.

6 MS. SHEALY: Your Honor, and obviously we still assert
7 that an Aiken versus Byars --

8 THE COURT: I know.

9 MS. SHEALY: -- is not called for.

10 THE COURT: Yeah. I was just trying to be mindful of
11 time and resources --

12 MS. SHEALY: While he was here.

13 THE COURT: -- and the fact that he was transported. But
14 the more I sort of think through procedurally, really is very
15 little he would have to offer.

16 So you would need to have an evaluation. You've already
17 indicated he doesn't plan to call any of his family members.

18 MS. BLAZER: Right.

19 THE COURT: So who -- and then you would want to call Mr.
20 Crumrine and Mr. Schwacke?

21 MS. BLAZER: If possible.

22 THE COURT: Which, we'd have to coordinate their
23 schedules, because they retired. And, you know, for retired
24 people, every day is Friday.

25 MS. SHEALY: And Mr. Crumrine is retired to where his

1 grandchildren are in Beaufort. So it's even --

2 THE COURT: Well, that's not too bad. That's 66 miles.

3 MS. SHEALY: Yeah.

4 THE COURT: It's a pretty ride.

5 MS. SHEALY: It is.

6 THE COURT: He's accommodating. He -- I'm sure he would
7 accommodate us.

8 Why don't we then -- we'll just -- since really the
9 testimony that we need -- and I commend you for being mindful
10 of resources at OID and -- not -- yeah. Indigent Defense.
11 I'm sorry. My acronyms. in the gym. Defense, I'm sorry my
12 acronyms -- I got to make sure.

13 Because it would -- it really would not have made sense
14 to have expended those kind of resources if there's a legal
15 issue that this all hinges on.

16 So -- and I'm correct in my assumption that State would
17 not be calling any witnesses, unless, of course, you would
18 have a contravening expert that may have a different opinion
19 on some of the issues.

20 MS. SHEALY: Yes. I don't want to limit myself to
21 that --

22 THE COURT: Well, no. I wasn't --

23 MS. SHEALY: -- necessarily right now, just in case, I
24 have somebody that was present during the --

25 THE COURT: Yeah.

1 MS. SHEALY: -- matter that could describe his -- you
2 know, the way he was back then. It's of interest to me that
3 there's no plan to use anyone in his family, because they
4 would be the one -- the forwarders of --

5 THE COURT: Well --

6 MS. SHEALY: -- what he was like as a child, et cetera.

7 THE COURT: I can kind of see the logic, though, of him
8 feeling like he's put his family through enough.

9 MS. SHEALY: I understand that. I do understand that.

10 MS. BLAZER: And I certainly intend to have his family
11 participate in the psychiatric evaluation.

12 THE COURT: And I'm certain, though, that even though he
13 said that, Ms. Liz is going to reach out to them and see what
14 they think. Yeah. Because while, you know, lawyers take
15 their clients (indiscernible) and advice, they'll, you know,
16 they still have to do what's in their client's best interest,
17 whether their clients agree or not. I cannot imagine that she
18 would not reach out to them anyway and see what they say.

19 So yeah, probably it's more practical then, for us just
20 to recess this and then let me think and make a decision. And
21 then we'll see where we are. And then if I decide that a
22 Aiken versus Byars is appropriate, then we could talk -- we
23 could -- I -- and I think I shared this all with you when we
24 had status conference, is I don't want this lingering. I --
25 you know, it had already been lingering for a minute, and it

1 needed to come to some resolution. So the fact that we've had
2 this hearing, I think I'm comfortable in us knowing that we
3 are going to stay on task and get it done.

4 And then if I agree with the State and I deny the Motion,
5 then you can proceed with an appeal and --

6 MS. BLAZER: Right.

7 THE COURT: -- go from -- and then, if not, then we'll
8 have -- we'll pick another date, and I -- and then I will
9 touch bases with you-all about, you know, how long you need to
10 do that, how long it's going to take to get in -- about, you
11 know, sort of our time line and keep us all on task to do what
12 we need to do to come to a final resolution.

13 MS. BLAZER: Am I right that the Court would like me to
14 hold off on the 608 Order until you make a decision?

15 THE COURT: I would wait --

16 MS. BLAZER: Yes, ma'am.

17 THE COURT: -- until I --

18 MS. BLAZER: Okay.

19 THE COURT: Because there's no point -- I'm thinking
20 we're -- you know, we're looking like in the \$10,000 - \$15,000
21 range.

22 MS. BLAZER: Yes, ma'am.

23 THE COURT: And there's no need to expend those resources
24 when it may not be needed. And there are other folk that --

25 MS. BLAZER: Okay.

1 THE COURT: -- need those resources.

2 MS. BLAZER: All right.

3 THE COURT: Yeah.

4 MS. BLAZER: I'll hang back till I get the Court's
5 decision.

6 THE COURT: So if you-all could provide me, though, with
7 proposed orders.

8 Is five days too short a time frame? Or is -- or can
9 you-all --

10 MS. SHEALY: Judge, I am --

11 MS. BLAZER: That's too short for you, I'm sure.

12 MS. SHEALY: Yes. I'm starting a trial on Monday. If we
13 could have a little bit longer than that.

14 THE COURT: Ten?

15 MS. SHEALY: Excuse me?

16 THE COURT: Ten?

17 MS. SHEALY: I think 10 will do it.

18 THE COURT: And you should make any findings of fact and
19 conclusions of law consistent with the record. I find
20 proposed orders to be helpful because they really force a
21 person to focus and summarize even more so than you would in a
22 closing kind of an argument. So if you all could provide
23 those to me.

24 And those need to be sent to DjeffersonSC@SCcourts.org.

25 MS. BLAZER: Yes, ma'am.

1 THE COURT: Again, that's DjeffersonSC@SCcourts.org in
2 Word format.

3 MS. BLAZER: In Word format? Yes, ma'am.

4 THE COURT: Uh-huh.

5 And, of course, you know, copy each other on it and all
6 that.

7 MS. BLAZER: Of course.

8 MS. SHEALY: Yes.

9 THE COURT: All right, guys, you-all have a good day.

10 MS. BLAZER: Thank you, Your Honor.

11 MS. SHEALY: You, too.

12 THE COURT: Thank you.

13 MR. HAMPTON: Thank you, Your Honor.

14 THE COURT: You're welcome. We'll see.

15

16

17

18 (At 10:47 a.m., the hearing concluded.)

19

20

21

END OF TRANSCRIPT.

22

23

24

25

CERTIFICATE OF TRANSCRIBER

State of South Carolina

County of Charleston

I, BARBIE TEBOE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings and evidence introduced in the trial of the captioned case, relative appeal, in the Court of General Sessions for Charleston County, South Carolina, on the 8th day of April, 2025.

I further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 2, 2025

A handwritten signature in cursive script that reads "Barbie K. Teboe". The signature is written in dark ink and is positioned above a horizontal line.

Barbie Teboe,
Transcriber

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

MARK HAMILTON,

Defendant.

In the Court of General Sessions
Ninth Judicial Circuit

**ORDER DENYING DEFENDANT'S
MOTION FOR RESENTENCING**

Indictment Number:
1992-GS-10-1680

Presiding Judge:
Counsel for the State:
Counsel for Defendant:
Date of Hearing:
Court Reporter:

Hon. Deadra L. Jefferson
Jennifer Shealy, Esq.
Cameron Blazer, Esq.
April 8, 2025
WebEx

This matter came before the Court on April 8, 2025 pursuant to the Defendant's Motion for Resentencing pursuant to the South Carolina Supreme Court's ruling in Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). Appearing for the State of South Carolina was Jennifer Shealy, Esq. and William S. Hampton, Esq. Appearing for the Defendant Mark Hamilton¹ was Cameron Blazer, Esq. After reviewing the record, considering the briefs submitted by the parties, and the arguments of counsel, Defendant's Motion for Resentencing is heard and DENIED.

FACTUAL BACKGROUND

The Defendant, Mark Hamilton, is presently confined to Perry Correctional Institution in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. Defendant was indicted on March 2, 1992 for Murder

¹ The Defendant Mark Hamilton is housed at Perry Correctional Institution in Pelzer, S.C. within the S.C. Department of Corrections and was transported for the hearing.

(Indictment #:1992-GS-10-1680). The indictment arises from events occurring on October 22, 1991, where the Defendant (then seventeen (17) years of age) and a group of four (4) teenagers were on Ranger Drive in North Charleston where they got into an altercation with Ralph "Gary" Sineath. Mark Hamilton was one of the four (4) teenagers charged. During the fight, Gary Sineath defended himself and pulled out a box cutter, slashing Hamilton's leg to the bone. When emergency responders arrived on scene, Hamilton was bleeding profusely and Sineath was dead, having been beaten by one or more of the other boys with sticks and lumber.

John D. Crumrine, Esq. was appointed to represent Hamilton, who was being tried as an adult under the "hand-of-one-hand-of-all" theory of accomplice liability. The case went to trial, and Hamilton was convicted of Murder.² Thereafter, on June 16, 1993, the Honorable Luke N. Brown, Jr. sentenced Hamilton to a term of imprisonment "for the balance of your natural life." Hamilton became eligible for parole after twenty (20) years, and has had seven (7) parole hearings since 2014.

On January 30, 2023, the Defendant filed a Motion for Re-Sentencing pursuant to Aiken v. Byars.³ On August 22, 2023, the Court appointed Cameron Blazer, Esq. to serve as counsel for Mr. Hamilton. The State of South Carolina filed a response in opposition to Defendant's Motion for Re-Sentencing on March 12, 2025, arguing that the Motion should be dismissed with prejudice, and should be resolved on the pleadings with no hearing. The Defendant filed a Response to State's Motion to Dismiss on April 3, 2025. The Court conducted a hearing on April

² The statute in effect at the time of the Murder, S.C. Code Ann. § 16-3-20(A) (Supp. 1991), provided for parole eligibility after twenty (20) years. See State v. Atkins, 303 S.C. 214, 99 S.E.2d 760 (1990).

³ Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). On June 27, 2023, Judge Bentley Price was vested with exclusive jurisdiction over Petitioner's Motion for Resentencing, by Order of the Honorable Donald W. Beatty. On March 1, 2024, this Court was vested with exclusive jurisdiction by Order signed the Honorable Donald W. Beatty. This matter was scheduled expeditiously based on the availability of counsel.

8, 2025, to determine whether the Defendant meets the requirements articulated by the South Carolina Supreme Court and is thereby subject to a re-sentencing pursuant to Aiken v. Byars.

LAW

The Eighth Amendment of the United States Constitution states that "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." U.S. Const. amend. VIII. In 2012, the United States Supreme Court held that the Eighth Amendment's prohibition on cruel and unusual punishment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders. Miller v. Alabama, 567 U.S. 460, 479, 132 S. Ct. 2455, 2469 (2012). In reaching this decision, the Court reasoned that juveniles are constitutionally different from adults for purposes of sentencing because they have "diminished culpability and greater prospects for reform." Id. at 471, 132 S. Ct. at 2464. First, "children have a lack of maturity and an underdeveloped sense of responsibility leading to recklessness, impulsivity, and heedless risk-taking." Id. at 471, 132 S. Ct. at 2464 citing Roper v. Simmons, 543 U.S. 551, 569 125 S. Ct. 1183 (2005). "Children are [also] more vulnerable . . . to negative influences and outside pressures including from their family and peers; they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings." Id. citing Roper, 543 U.S. at 569, 125 S. Ct. at 1219. And lastly, "a child's character is not as "well formed" as an adult's; his traits are less fixed and his actions less likely to be evidence of irretrievable depravity." Id. citing Roper at 543 U.S. at 570, 125 S. Ct. at 1183. A judge or jury must therefore consider mitigating circumstances before imposing the harshest penalty possible for juveniles. Id. at 489, 132 S. Ct. at 2475.

Subsequent to the Court's ruling in Miller v. Alabama, the South Carolina Supreme Court addressed the applicability of Miller to juveniles who received a life sentence without parole in

South Carolina. This case, Aiken v. Byars, upheld the principles enunciated in Miller by holding that "any juvenile offenders who receives a sentence of life without the possibility of parole, whether the sentence is mandatory or permissible, is entitled to the constitutional protections afforded by the Eighth Amendment's guarantee against cruel and unusual punishment." Aiken, 410 S.C. at 544, 765 S.E.2d at 577. The Court further held that Miller applies retroactively to all juvenile offenders sentenced to life without parole and prospectively to all juvenile offenders who may be subject to a sentence of life imprisonment without the possibility of parole. Id. at 542, 765 S.E.2d at 578. Courts are, thus, required to provide juvenile offenders in South Carolina with individualized hearings where the mitigating hallmark features of youth are fully explored before a life sentence without parole is imposed. Id.

The U.S. Supreme Court has held that a Miller violation may be remedied by resentencing or by extending parole eligibility to previously ineligible juvenile offenders. See Montgomery v. Alabama, 136 S. Ct. 718, 736 (2016). "A state may remedy a Miller violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them" thereby ensuring that "juveniles whose crimes reflected only transient immaturity – and who have since matured – will not be forced to serve a disproportionate sentence in violation of the Eighth Amendment." Id. The South Carolina Supreme Court held that the appropriate remedy for juvenile offenders sentenced to life without parole is a re-sentencing hearing whereby the offender may present evidence specific to their attributes of youth. See Aiken, 410 S.C. at 544, 765 S.E.2d at 577.

ANALYSIS

The Defendant in the instant case was sentenced in 1993 at the age of sixteen (16) to confinement for a period of life with parole eligibility pursuant to S.C. Code Ann. § 16-3-

20(A)(Supp. 1991). Defendant currently seeks re-sentencing of his life sentence in accordance with Aiken v. Byars. In support thereof, Defendant asserts that he falls within the class of juvenile offenders referenced by the Court in Aiken because he was sixteen (16) years old at the time of his crime and sentenced to a term of life imprisonment. Defendant argues that his sentence is, therefore, unconstitutional under Miller v. Alabama and Aiken v. Byars.

The State disputes that Defendant is entitled to re-sentencing under Miller and Aiken on the basis that the Defendant is categorically different from the defendants in these cases since he is eligible for parole and has been since January 18, 2012. It is the State's contention that the holdings of Miller and Aiken solely apply to those juveniles sentenced to life without the possibility of parole. In support of this contention, the State cites to Montgomery v. Alabama in which the U.S. Supreme Court held that a Miller violation may be remedied by re-sentencing the juvenile offender or by extending parole eligibility to the offender. See Montgomery, 136 S. Ct. at 736 ("Giving Miller retroactive effect does not require states to re-litigate sentences, let alone convictions, in every case where a juvenile offender received mandatory life without parole. A State may remedy a Miller violation by permitting juvenile homicide offenders to be considered for parole rather than by resentencing them."). Because Montgomery provides that states may, in their discretion, remedy Miller violations by extending parole eligibility to juvenile offenders, the State argues that Miller and Aiken do not apply to juveniles who received life sentences with eligibility for parole as Defendant did here.

Defendant concedes that his sentence differs from those of the defendants in Miller and Aiken, but argues that any distinction between his sentence (life with parole eligibility) and those at issue in Miller and Aiken (life without the possibility of parole) is technical in nature. Moreover, Defendant asserts that there is no "material difference" between his sentence and a life sentence

without parole because his eligibility for parole does not adequately protect the constitutional protections provided by Miller and Aiken. Defendant contends that all juvenile offenders are entitled to a meaningful review of the impact of age and maturity on their crimes and their potential for rehabilitation pursuant to Miller and Aiken, but maintains that he did not receive this type of meaningful review at his parole hearings. Accordingly, Defendant seeks a specialized hearing before this Court in order to evaluate his sentence in light of Miller and Aiken. In essence, the Defendant is asking this Court to grant him an Aiken hearing for the specific purpose of granting him parole thereby usurping the role of the parole board and their decision-making authority which is delegated to them by statute. This Court finds this request exceeds its authority as well as the purpose and goal of the Aiken decision. This Court does not find any support in the Defendant's reading of the Aiken precedent as a guarantee of the grant of parole versus parole eligibility.

The Court has fully and carefully considered the documents and exhibits submitted to the Court and the arguments of counsel at the April 8, 2025, hearing. Upon careful and deliberate consideration, the Court hereby denies Defendant's request for re-sentencing pursuant to Aiken v. Byars. The Court finds that the Defendant does not fit within the ambit of juvenile offenders eligible for re-sentencing under Miller and Aiken. The Defendant here was sentenced to life with parole as a juvenile whereas the defendants before the Court in both Miller and Aiken were sentenced to life without parole as juveniles. See Miller, 567 U.S. at 465, 132 S. Ct. at 2460 ("The two fourteen-year old offenders [. . .] were convicted of murder and sentenced to life imprisonment without the possibility of parole."); Aiken, 410 S.C. at 536, 765 S.E.2d at 573 ("The [defendants] were all convicted for homicides committed while they were juveniles. All were sentenced to life without parole according to existing sentencing procedures."). Aiken provides that its holding and that of Miller apply retroactively "to those similarly situated" to the defendants in those cases. 410

S.C. at 537, 765 S.E.2d at 573. That is to say, only those defendants sentenced to life without parole as juveniles are eligible for re-sentencing under Miller and Aiken. Because the Defendant here is parole-eligible, the Court finds that the Defendant is not "similarly situated" to those in Miller and Aiken, and is, thus, not a proper candidate for re-sentencing in accordance with the guidelines set forth by these cases. In so ruling, the Court notes this interpretation of Aiken is supported by Montgomery v. Alabama wherein the U.S. Supreme Court held that giving Miller retroactive effect does not require courts to re-litigate sentences in every case where the defendant received life without parole. See Montgomery, 136 S. Ct. at 736. A court may instead elect to extend parole eligibility to juvenile offenders rather than re-sentence them. See id.

The Court finds that the instant case is categorically different from Miller and Aiken; and that, consequently, it lacks authority to reconsider Defendant's sentence under these cases. Moreover, because Defendant is presently parole-eligible, he already enjoys one of the potential remedies afforded to juvenile offenders by the U.S. Supreme Court. See Montgomery, 136 S. Ct. at 736 ("A State may remedy a Miller violation by permitting juvenile homicide offenders to be considered for parole, rather than by re-sentencing them."). Once a defendant is parole eligible, it then becomes the duty of the South Carolina Board of Pardons and Paroles, not this Court, to consider the cases for pardon, parole, and any other form of clemency provided by law. See S.C. Code Ann. § 24-21-13(B)(Supp. 2024). In performing this duty, the parole board considers a number of criteria, including the circumstances surrounding the offense and the potential for rehabilitation.⁴

⁴ Alternatively, even if the Court were to accept the Defendant's argument and grant a re-sentencing hearing there is no guarantee that any potential change of sentence would make any appreciable difference in his parole eligibility, consideration for parole or guarantee the grant of parole. In effect, he would maintain his current posture regarding his consideration for parole.

Defendant contends that the criteria listed above fails to consider the factors of youthfulness and immaturity set forth by Miller, and that as a result, Defendant has been denied "meaningful review" of his sentence as afforded to him by Miller. This contention is solely based upon the fact that Defendant has had seven (7) parole hearings since he first became parole eligible in 2012, and has been denied parole each of the seven (7) times. In asking this Court to evaluate the criteria utilized by the parole board in making these decisions, the Defendant is, in effect, asking this Court to review the decisions made by the board as well as the decision-making process itself. The Defendant is in effect asking this Court to usurp the board's statutory decision-making authority and substitute it with its own. Such a request is improper as this Court is without the jurisdiction to sit in judgment of the decisions of the parole board. "The parole board has the sole authority to determine parole eligibility separate and apart from a court's authority to sentence a defendant." Cooper v. S.C. Dep't of Prob., Parole, and Pardon Serv., 377 S.C. 489, 496, 661 S.E.2d 106, 110 (2008).

An inmate who wishes to appeal a decision of the parole board must seek review from the Administrative Law Court rather than the Circuit Court.⁵ See Cooper, 377 S.C. at 497, 661 S.E.2d at 110 ("The ALJD has subject matter jurisdiction to hear appeals from the final decision of [the Department] in a non-collateral or administrative matter."); Al-Shabazz v. State, 338 S.C. 354, 376, 527 S.E.2d 742, 754 ("An inmate may seek review of the Department's final decision of an ALJ in a non-collateral or administrative matter under the APA."). However, "parole is a privilege, not a right," and, thus, not all of the Department's decisions are subject to review. See Cooper, 377

⁵ "The name was changed from the Administrative Law Judge Division to the Administrative Law Court by Act No. 202, effective April 26, 2004." James v. S.C. Dep't of Prob., Pardon and Parole Serv., 376 S.C. 392, 656 S.E.2d 399 n. 3 (Ct. App. 2008) (citing Civil Action No.: 2001-CP-32-0711 Carolina Water Serv., Inc. v. Lexington County Joint Mun. Water & Sewer Comm'n, 367 S.C. 141, 625 S.E.2d 227 (Ct. App. 2006)).

S.C. at 496, 661 S.E.2d at 496; Furtick v. S.C. Dep't of Prob. Pardon and Parole Serv., 352 S.C. 594, 597, 576 S.E.2d 146, 148 (2003). The South Carolina Supreme Court has repeatedly recognized that an inmate has a right to administrative law review of an agency's final decision denying parole eligibility, but does not have the same right to review of a temporary denial of parole. See, e.g., Furtick, 352 S.C. at 598, 576 S.E.2d at 148-49 (holding that "the permanent denial of parole eligibility implicates a liberty interest sufficient to require at least minimal due process."). "The distinction is that review or consideration for parole is a right granted by statute whereas parole is only a privilege." Steele v. Benjamin, 362 S.C. 66, 72, 606 S.E.2d 499, 502 (Ct. App. 2004).

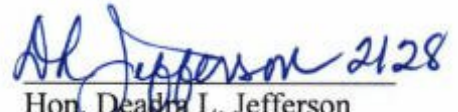
The Defendant has been denied parole by the board seven (7) times since he first became parole eligible in 2012, however, the board has never permanently denied Mr. Hamilton parole. Further, a denial of parole, in and of itself, does not mean that the Defendant has been denied a meaningful review. In fact, the parole board is required, by law, to review Defendant's case every twelve (12) months after a negative parole determination. S.C. Code Ann. § 24-21-620 (Supp. 2002). The Defendant is nevertheless asking this Court to review the board's negative parole determination in his case on the basis that the criteria promulgated by the legislature and utilized by the parole board does not comply with Miller, and is, therefore, unconstitutional. This Court recognizes that it has the authority to interpret the statute setting forth the parole criteria, but finds that the Defendant here is effectively asking the Court to usurp the authority of the parole board to make parole determinations, and instead substitute its own judgment as to whether Defendant should have been granted parole. This Court will therefore not render an opinion as to the appropriateness of the parole board's decision. Such a determination is not dispositive as to the applicability of Aiken to the Defendant's sentence. The Court does, however, acknowledge the

jurisdiction of the Administrative Law Court to determine whether the parole board's decision was made without consideration of the appropriate criteria, and would encourage the Defendant to seek such relief there if he so desires.

CONCLUSION

Based on the foregoing, the Court finds that the Defendant has failed to establish the required criteria and is, therefore, not entitled to re-sentencing under Aiken v. Byars. **THEREFORE**, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT Defendant's Motion for Re-Sentencing is heard and DENIED.

AND IT IS SO ORDERED.


Hon. Deandra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

June 4, 2025
Charleston, South Carolina

FILED
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JULIE J. ARMSTRONG
CLERK OF COURT
BY 