

THE SUPREME COURT OF SOUTH CAROLINA

Ex parte: Robert W. Harrell, Jr., Respondent,

v.

Attorney General of the State of South Carolina,
Appellant.

In re: State Grand Jury Investigation

Appellate Case No. 2014-001058

RECEIVED

MAY 23 2014

S.C. SUPREME COURT

MOTION TO LIFT STAY AS SET FORTH IN ORDER
OF THIS COURT DATED MAY 21, 2014

Respondent hereby moves, by and through his undersigned attorneys, that this court lift any automatic stay and withdraw that portion of the order of May 21, 2014 which states "The order on appeal is automatically stayed pursuant to S.C. Code Ann. §14-7-1630(G)(Supp.2013)."

The basis of this motion is that in order to invoke §14-7-1630(G), it is required that the lower court determine that the State Grand Jury was not conducting investigative activity within its jurisdiction and that the presiding judge therefore limits the investigation so that the investigation *conforms* within the jurisdiction of the Grand Jury. As is clearly set forth in the order of the lower court which has been provided to this court attached to Appellant's Notice of Appeal and Petition for a Writ of Supersedeas (Exhibit 1), the lower court specifically determined in footnote 4 of the opinion below as follows:

This order is not issued pursuant to S.C. Code Ann. §14-7-1630(G) because subject matter jurisdiction was lacking to convene the Grand Jury *ab initio*.

Accordingly, the lower court found the State Grand Jury lacked subject matter jurisdiction to be

convened and therefore had *no* jurisdiction, not that it was conducting investigative activity outside of its jurisdiction allowing the presiding judge to limit the investigation.

In accordance with Judge Manning's finding below, Judge Manning rescinded and revoked the order convening the Grand Jury and determined that neither the Grand Jury nor any other investigative agency shall take any action concerning the ethics violation, which was the subject of the determination below, until such time as a final determination is made by the House of Representatives Legislative Ethics Committee and/or referred by the House of Representatives Legislative Ethics Committee to the Attorney General pursuant to S.C. Code Ann. §§ 8-13-510 et seq.

While §14-7-1630(G) does provide that if an appeal from an order is made under that section, the State Grand Jury, except as otherwise ordered by the Supreme Court, shall continue to exercise its powers pending disposition of the appeal, only if the judge's order had been issued pursuant to §14-7-1630 would it automatically be stayed. However, the order below was specifically *not* issued pursuant to S.C. Code Ann. §14-7-1630(G) and, thus, the lower court order is not appropriately stayed under that section.

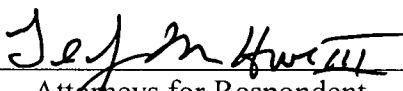
In any event, Respondent respectfully submits that the State Grand Jury and other investigative agencies should not continue to exercise jurisdiction over this matter unless this court issues a determination on appeal that the State Grand Jury did have jurisdiction, reversing Judge Manning's order.

For the foregoing reasons as well as any which may be advanced upon any hearing to be held hereon, it is respectfully submitted that this court should withdraw that portion of the order of May 21, 2014 which states that the order on appeal is automatically stayed pursuant to S.C. Code Ann. §14-7-1630(G)(Supp. 2013) and/or this court should order that the State Grand Jury and other

investigative agencies discontinue activity pending the determination of this appeal.

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May 22, 2014

THE SUPREME COURT OF SOUTH CAROLINA

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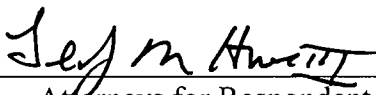
PROOF OF SERVICE

The undersigned hereby certifies that he has served the attached Motion to Lift Stay as Set Forth in Order of this Court Dated May 21, 2014 on Appellant by depositing a copy in the United States mail, postage pre-paid, on May 22, 2014, addressed to his attorneys of record listed below at the address listed below and by email to said attorneys of record.

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