

**THE STATE OF SOUTH CAROLINA
In the Supreme Court**

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

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MAY 23 2014

S.C. Supreme Court

RESPONDENT'S MOTION FOR RECONSIDERATION

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Respondent Robert W. Harrell, Jr. requests that the Court reconsider its order dated May 22, 2014 denying Appellant's Petition for Writ of Supersedeas for Interim Relief on the ground that the order permits the Attorney General to proceed with the investigation and possible prosecution of Respondent notwithstanding the unresolved issues regarding the Attorney General's conflict of interest. The motion to disqualify and related material filed in the lower court have been designated by Appellant as a part of the record for this proceeding, and Respondent requests the Court refer to those documents for a complete statement of the issues raised below. These issues were not decided by the lower court because the court determined that it did not have jurisdiction over the subject matter. The order of May 22, 2014 that permits the investigation by the Attorney General to proceed does not take these issues into account.

It is highly prejudicial to Respondent to permit the Attorney General, whose impartiality has been questioned but not decided, to continue to participate in any investigation. "It is axiomatic that the expectation of a fair and impartial tribunal is a basic tenet of all cherished notions of due process embodied in the United States Constitution." *Mallet v. Mallet*, 323 S.C. 141, 147, 473 S.E.2d 804, 807 (1996) (citing *In re Murchison*, 349 U.S. 133 (1955)). "[O]ur system of law has always endeavored to prevent even the probability of unfairness." *In re Murchison*, 349 U.S. at 136. These basic tenets of our judicial system would be violated if the attorney General is permitted to proceed without any resolution of the conflict of interest issues that were properly raised by Respondent at the outset of these proceedings.

This Court should therefore reconsider its May 22 Order and prohibit the Attorney General from proceeding with the investigation pending a determination of the jurisdictional issue, and to the extent that the lower court is found to have jurisdiction over the matter, thereafter until the conflict of interest issues are decided.

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May 23, 2014

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PROOF OF SERVICE

I certify that I have caused to be served the Motion for Reconsideration by serving as indicated below, on May 23, 2014, addressed to their counsel of record as follows:

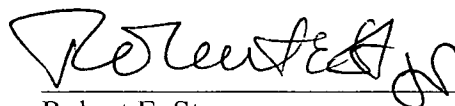
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