

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM FLORENCE COUNTY

Court of Common Pleas

Ernest R. Kinard, Circuit Court Judge

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FEB - 8 2011

S.C. Supreme Court

James David Farmer,

Respondent,

v.

Florence County Sheriff's Office,

Petitioner.

MOTION FOR LEAVE TO PARTICIPATE AS *AMICUS CURIAE*

SOLICITOR DAVID M. PASCOE, JR.
President, Solicitors' Association
of South Carolina

Post Office Box 11251
Columbia, SC 29211-1251
(803) 436-2185

COUNSEL FOR MOVANT

OTHER COUNSEL OF RECORD:

D. MALLOY MCEACHIN, JR.

D. Malloy McEachin, Jr.
2117-C West Palmetto Street
Florence, South Carolina 29501
(843) 665-0135

COUNSEL FOR PETITIONER

PATRICK J. MCLAUGHLIN

Wukela Law Firm
Post Office Box 13057
Florence, South Carolina 29504
(843) 669-5634

COUNSEL FOR RESPONDENT

Pursuant to Rule 213, SCACR, the Solicitors' Association of South Carolina, Inc. respectfully seeks leave of this Court to participate in this matter *as amicus curiae* for the following reasons.

I.

The issues raised in this matter by Petitioner Florence County Sheriff's Office arise from a civil lawsuit seeking the return of contraband items seized by law enforcement. The issues center on the procedure to be followed by the state to retain contraband items seized under South Carolina statutory law as well as the procedure to be followed by persons attempting to have seized items returned. They necessarily involve the interpretation of statutory law, including S.C. Code Sections 39-15-1195 and 44-53-530.

II.

The Solicitors' Association of South Carolina, Inc. consists of all elected Solicitors as well as their appointed, designated, and commissioned assistant solicitors. Among the purposes of the Solicitors' Association is the promotion of the due administration of justice, which includes the defense of legally obtained convictions and the pursuit of the forfeiture of seizure contraband. As state officers who share, with the Attorney General, the responsibility for pursuing the seizure of contraband, the Solicitors have a great interest in the interpretation and application of the statutes at the center of this case.

III.

The decision of this Court will impact not only upon the ability of South Carolina's law enforcement to control the possession and distribution of contraband by seizure of such, but also the ability of and process by which prosecutors seek to secure those seizures through court action aimed at obtaining a forfeiture of individuals's rights to such contraband.

IV.

The interests of the South Carolina Solicitors' Association are related to those of law enforcement in general and the Petitioner herein specifically. Allowing the South Carolina Solicitors' Association to participate as *amicus* will allow the Court to hear more fully from all stakeholders in contraband forfeiture matters and will assist the Court in resolving this matter.

V.

The undersigned Association does not believe that its participation as *amicus curiae* will delay the Supreme Court's consideration of this matter.

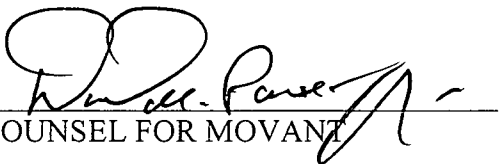
WHEREFORE, for all of the foregoing reasons, the undersigned Association respectfully requests leave of this Court to participate as *amicus curiae*, to include the filing of a Brief of *Amicus Curiae* should a writ of *certiorari* be issued, and any other action that the Court may wish; and for such other and further relief as this Court may deem just and proper.

Respectfully Submitted,

SOLICITOR DAVID M. PASCOE, JR.
President, Solicitors' Association
of South Carolina

Post Office Box 11251
Columbia, South Carolina 29211-1251
(803) 533-6252

BY:


COUNSEL FOR MOVANT

Orangeburg, South Carolina

February 4, 2011

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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PROOF OF SERVICE


I certify that I have served the Motion for Leave to Participate as *Amicus Curiae* on both Petitioner and Respondent by depositing one copy of such in the United States Mail, first class postage prepaid, on today's date, addressed to each of their counsel of record:

D. Malloy McEachin, Jr.
2117-C West Palmetto Street
Florence, South Carolina 29501

COUNSEL FOR PETITIONER

Patrick J. McLaughlin
Wukela Law Firm
Post Office Box 13057
Florence, South Carolina 29504

COUNSEL FOR RESPONDENT



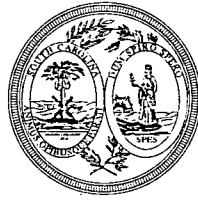
AMIE L. CLIFFORD

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February 8, 2011

Columbia, South Carolina

Solicitors' Association of South Carolina



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S.C. Supreme Court

David M. Pascoe, Jr.
First Judicial Circuit

February 8, 2011

J. Strom Thurmond, Jr.
Second Judicial Circuit

C. Kelly Jackson
Third Judicial Circuit

William B. Rogers, Jr.
Fourth Judicial Circuit

W. Barney Giese
Fifth Judicial Circuit

Douglas A. Barfield, Jr.
Sixth Judicial Circuit

Harold W. Gowdy III
Seventh Judicial Circuit

Jerry W. Peace
Eighth Judicial Circuit

Scarlett A. Wilson
Ninth Judicial Circuit

Christina T. Adams
Tenth Judicial Circuit

Donald V. Myers
Eleventh Judicial Circuit

E.L. Clements III
Twelfth Judicial Circuit

Robert M. Ariail
Thirteenth Judicial Circuit

Isaac McDuffie Stone III
Fourteenth Judicial Circuit

J. Gregory Hembree
Fifteenth Judicial Circuit

Kevin S. Brackett
Sixteenth Judicial Circuit

The Honorable Daniel E. Shearouse
Clerk of the Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re: Farmer v. Florence County Sheriff's Office

Dear Mr. Shearouse:

Enclosed for filing please find the original and six (6) copies of the Motion for Leave to Participate as *Amicus Curiae* served on Petitioner and Respondent in the above-referenced appeal. I have enclosed the original Proof of Service indicating service of the Motion on today's date.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me (in Orangeburg at 803-533-6252) or Amie Clifford (in Columbia at 343-0765).

Sincerely,

A handwritten signature in black ink that reads "David M. Pascoe, Jr." followed by a stylized flourish.

David M. Pascoe, Jr.
President, Solicitors' Association of South Carolina

Enclosures (as stated)

cc: D. Malloy McEachin, Jr.
Patrick J. McLaughlin