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February 2, 2016

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**Hand Delivered**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

RE: Protection and Advocacy for the People with Disabilities, Inc.; *et al.* v. South Carolina Department of Disabilities and Special Needs; *et al.*  
Appellate Case Number: 2014-000244  
Civil Action Number: 2007-CP-40-2187  
Our File Number: 79.7400

Dear Ms. Kitchings:

Pursuant to Rule 208(b)(7), S.C.A.C.R., I am writing to bring to the Court's attention the recent action by the Supreme Court in *Stogsdill v. Department of Health and Human Services*, Opinion No. 27601 (filed 1/20/16)(enclosed)(dismissing as improvidently granted). The Supreme Court had granted certiorari to review this Court's decision in *Stogsdill v. South Carolina Department of Health and Human Services*, 410 S.C. 273, 763 S.E.2d 638 (Ct. App. 2014).

One issue before the Supreme Court was whether this Court was correct in concluding that for matters included within the Medicaid Waiver, "approval by state regulation was not required to give the Waiver's provisions the force and effect of law." 410 S.C. at 280, 763 S.E.2d at 642. The effect of the Supreme Court's dismissal, of course, was to leave this Court's conclusion in place.

This Court's 2014 *Stogsdill* case, decided a year after the Circuit Court decision in the present case, is relevant to the issues before the Court regarding the need for Plaintiffs to show injury in fact and the presence of an actual controversy. While Plaintiffs have not introduced evidence about their standing to sue, it would appear that at least some, if not all, of the Plaintiffs in this case were in programs operated by the Medicaid Waiver. *See, e.g.*, R. 284-85, where Plaintiffs refer to the Pervasive Disability Disorder (PDD) Waiver, which is part of the Medicaid

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Plaintiffs refer to the Pervasive Disability Disorder (PDD) Waiver, which is part of the Medicaid Waiver. To the extent that a person is receiving services under the Waiver, the need for state regulations may not exist at all, or might only exist for some matters and not for others.

I appreciate the Court's consideration of the matters set forth above, and stand ready to file additional information should the Court request it.

With highest regards, I am

Sincerely yours,

DAVIDSON & LINDEMANN, P.A.



Kenneth P. Woodington

KPW/  
Enclosure

cc: Steven W. Hamm, Esquire (*w/ Enclosure*)  
C. Jo Anne Wessinger Hill, Esquire (*w/ Enclosure*)

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

**RECEIVED**

Richard Stogsdill, Petitioner,

FEB 02 2016

v.

**SC Court of Appeals**

South Carolina Department of Health and Human  
Services, Respondent.

Appellate Case No. 2014-002513

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**ON WRIT OF CERTIORARI TO THE COURT OF APPEALS**

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Appeal from the Administrative Law Court  
Carolyn C. Matthews, Administrative Law Judge

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Opinion No. 27601  
Heard November 17, 2015 – Filed January 20, 2016

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**DISMISSED AS IMPROVIDENTLY GRANTED**

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Patricia Logan Harrison, of Columbia, for Petitioner.

Richard G. Hepfer, of Columbia, for Respondent.

Anna Maria Darwin and Sarah Garland St. Onge, both of  
Columbia, for Amicus Curiae Protection and Advocacy  
for People with Disabilities, Inc.; Andrew J. Atkins, of  
Columbia, for Amicus Curiae South Carolina Chapter of

the National Academy of Elder Law Attorneys; and  
Stephen Suggs, of Columbia, for Amicus Curiae South  
Carolina Appleseed Legal Justice Center.

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**PER CURIAM:** We granted a writ of certiorari to review the court of appeals' decision in *Stogsdill v. South Carolina Department of Health and Human Services*, 410 S.C. 273, 763 S.E.2d 638 (Ct. App. 2014). We now dismiss the writ as improvidently granted.

**DISMISSED AS IMPROVIDENTLY GRANTED.**

**PLEICONES, C.J., BEATTY, KITTREDGE, HEARN, JJ., and Acting Justice James E. Moore, concur.**