

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM RICHLAND COUNTY  
G. Thomas Cooper, Jr., Circuit Court Judge

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Op. No. 5383  
(S.C. Ct. App. filed February 24, 2016)

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**RECEIVED**  
MAY 20 2016  
SC SUPREME COURT

Protection and Advocacy for the People with Disabilities, Inc.;  
M.J.B. on behalf of and as next friend of J.B.; C.B.B. on behalf  
of and as guardian of P.B.; G.C. and L.C. on behalf of and as  
next friend of A.E.; J.H. on behalf of and as next friend of A.J.;  
G.M. on behalf of and as next friend of E.M.; N.M. on behalf of  
and as guardian of E.J.M.; R.P. on behalf of and as guardian of  
S.P.; R.R. and J.R. on behalf of and as guardians of K.D.R.; and  
J.K. on behalf of and as guardian of S.S., .....Respondents,

v.

South Carolina Department of Disabilities and Special Needs;  
Dr. Beverly Buscemi, in her official capacity as Director of the  
South Carolina Department of Disabilities and Special Needs;  
and Nancy Banor, Deborah McPherson, Christine Sharp, Rick  
Huntress, Fred Lynn, Harvey Shiver and Kelly Hanson Floyd,  
as Commissioners of the South Carolina Department of  
Disabilities and Special Needs, .....Petitioners.

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**SUPPLEMENT TO PETITION  
FOR WRIT OF CERTIORARI**

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William H. Davidson, II  
Kenneth P. Woodington  
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Post Office Box 8568  
Columbia, South Carolina 29202  
(803) 806-8222

*Counsel for Petitioner*

No. 15-904

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IN THE  
SUPREME COURT OF THE UNITED STATES

RICHARD STOGSDILL - PETITIONER

vs.

SOUTH CAROLINA DEPARTMENT OF HEALTH  
AND HUMAN SERVICES - RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO  
THE SUPREME COURT OF SOUTH CAROLINA

PETITION FOR WRIT OF CERTIORARI

Patricia Logan Harrison  
Attorney at Law  
611 Holly Street  
Columbia, South Carolina 29205  
803-256-2017

*Attorney for Petitioner*

## QUESTIONS PRESENTED

- Issue 1. Is the State court's decision in accordance with this Court's directives in *Olmstead v. L.C.*, which require the State to administer disability services with an "even hand" by properly relying upon the well-reasoned views of the agencies, while giving great deference to the medical decisions of the responsible, treating physician?
- Issue 2. Does a State Medicaid agency violate rights guaranteed by the Due Process Clause of the Fourteenth Amendment and statutory rights under 42 U.S.C. 1396a(a)(3) when the government:
- (1) fails to provide written notices containing all information required by 42 C.F.R. 431.210 when it reduces services, denies claims for assistance, and whenever it fails to act promptly on Medicaid participants' requests or claims for services;
  - (2) issues decisions not based exclusively on evidence presented at an evidentiary hearing;
  - (3) fails to issue a final administrative decision within 90 days of the request for a fair hearing and gives the State repeated opportunities to "win" and wear out impoverished waiver participants by repeatedly remanding cases back to the agency, without regard for the federal standard of promptness?
- Issue 3. Has DHHS violated 42 U.S.C. 1396a(a)(8) by improperly imposing administrative delays in state "fair hearing" proceedings, which have unjustly delayed adjudication of Richard's important federal rights to enforce the reasonable promptness provisions of the Medicaid Act in the federal courts through § 1983 of the Civil Rights Act and has dangerously delayed the provision of critical medically necessary services ordered by Richard's treating physician?

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**CERTIFICATE OF SERVICE**

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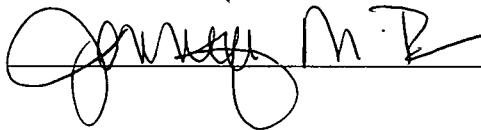
The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Petitioners, does hereby certify that service of the **Amended Petition for Writ of Certiorari** and the **Supplement to Petition for Writ of Certiorari** in the above referenced action was made upon the Clerk of the South Carolina Court of Appeals by hand delivery and upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 20th day of May 2016:

**Hand Delivered**

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

**Via U.S. Mail**

Steven W. Hamm, Esquire  
C. Jo Anne Wessinger Hill, Esquire  
Richardson, Plowden & Robinson, P.A.  
Post Office Drawer 7788  
Columbia, South Carolina 29202



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