



ALAN WILSON  
ATTORNEY GENERAL

**RECEIVED**

**AUG 15 2017**

August 15, 2017

**S.C. SUPREME COURT**

The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
P.O. Box 11330  
Columbia, South Carolina 29211  
**Attention: Debbie Hopkins**

Re: Bobby Wayne Stone vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, and Joseph McFadden, Warden, Lieber Correctional Institution  
C/A No. 2:17-01221-MGL-MGB

Dear Ms. Hopkins:

Please find enclosed a Status Report filed by the Respondents in the above-named action.

If you should have any questions, or if I can be of any assistance to you, please do not hesitate to contact me.

Sincerely,

Alphonso Simon, Jr.  
Assistant Attorney General

AS:dmd

Enclosures

cc: Emily C. Paavola  
John H. Blume, III  
John F. Warren, III

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Bobby Wayne Stone,

Petitioner,

vs.

Bryan P. Stirling, Commissioner, South  
Carolina Department of Corrections, and  
Joseph McFadden, Warden, Lieber  
Correctional Institution,

Respondents.

) C/A No. 2:17-cv-01221-MGL-MGB  
) (Capital Case)

) STATUS REPORT

**RECEIVED**

**AUG 15 2017**

**S.C. SUPREME COURT**

Comes now Respondents, above named, by and through the Office of the South Carolina Attorney General, and hereby file this Status Report.

1. Joseph McFadden is no longer the warden at Lieber Correctional Institution. Earlier this month, Joel Anderson was named interim warden at the institution.

2. By Respondents' calculations, there is no longer a stay of execution in place. On April 10, 2017, this Court filed an Order Granting Petitioner's Motion to Stay his Execution and Holding in Abeyance his Motion for the Appointment of Counsel. [Docket Entry #9]. In the Order, Petitioner's execution was stayed "until ninety days after the Court rules on Petitioner's motion for the appointment of counsel." [Docket Entry #9, p. 4].

On May 4, 2017, this Court filed its Order Granting Petitioner's Motion for Appointment of Counsel as Modified. [Docket Entry #13]. In the Order, this Court appointed John Blume, Esq., and Emily Paavola, Esq., to represent Petitioner as habeas counsel. This Court also appointed John Warren, Esq. to serve as independent

counsel to conduct an investigation into whether Petitioner has any potential Martinez<sup>1</sup> claims he may wish to raise in his federal habeas corpus petition.

Pursuant to this Court's April 10, 2017 Order, Petitioner's stay of execution was set to elapse ninety days after the Order filed on May 4, 2017. Respondents' calculations reflect that Wednesday, August 2, 2017 was the ninetieth day. Thus, on Thursday, August 3, 2017, the stay of execution issued by this Court expired. Counsel for Respondents has conferred with Petitioner's counsel regarding this calculation via email. Counsel for Petitioner indicated this calculation is consistent with their calculations.<sup>2</sup> Counsel also indicated that Mr. Blume and Ms. Paavola are preparing a petition for writ of certiorari to file in the United States Supreme Court later this month, and are in the process of preparing a federal habeas petition. Counsel also indicated Mr. Warren is conducting his Martinez investigation.

Respectfully submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

ALPHONSO SIMON JR.  
Assistant Attorney General  
ID No. 10199

SHERRIE BUTTERBAUGH  
Assistant Attorney General

---

<sup>1</sup> Martinez v. Ryan, 566 U.S. 1 (2012).

<sup>2</sup> A copy of this Status Report is being provided to the South Carolina Supreme Court.

Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734 6305

August 15, 2017

ATTORNEYS FOR RESPONDENTS  
By: s/ Alphonso Simon Jr.