

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ANDERSON )  
 )  
 JOHNNY LEE BURTON, )  
 )  
 Petitioner, )  
 )  
 VS. )  
 )  
 THE STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )

IN THE COURT OF GENERAL SESSIONS  
 TENTH JUDICIAL CIRCUIT  
 INDICTMENT NO.: 1994-GS-04-824; 825

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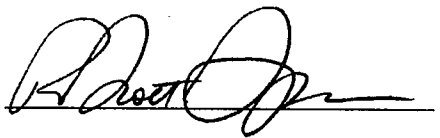
ORDER OF DIMISSAL

This matter came before the Court on August 9, 2017. The State was represented by Deputy Solicitor Catherine T. Huey. Jennifer Johnson, Chief Public Defender for the 10<sup>th</sup> Judicial Circuit, represented the Petitioner. On October 27, 2016, Petitioner filed a motion for resentencing pursuant to Aiken v. Byars having been found guilty of Murder and the Possession of a Weapon during the Commission a Violent Crime and sentenced to life and five years, respectively, by the Honorable H. Dean Hall. This Court was given jurisdiction of this matter by order of Chief Justice Pleicones.

All parties agree that Petitioner was a juvenile for the purposes of Aiken v. Byars at the time of his sentencing and did receive a life sentence. However, all parties further agree that the Petitioner has been eligible for parole since his service of 20 years, although parole has been denied to date, and remains eligible for parole in that he has a parole hearing set for April 20, 2018.

Aiken v. Byars is concerned with the process due to a juvenile defendant who has been sentenced to *life without the possibility parole*. Here, the sentence imposed by the Court did not necessarily impose a permanent loss of the juvenile defendant's freedom. Petitioner has previously been eligible for parole and remains eligible for parole. Therefore, the Petitioner is not entitled to the specific relief provided by Aiken v. Byars. Petitioner's motion for a sentencing hearing pursuant to Byars is thus dismissed.

**IT IS SO ORDERED.**



R. Scott Sprouse, Presiding Judge  
 10<sup>th</sup> Judicial Circuit

Anderson, South Carolina  
 August 9, 2017

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