THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Estate of Edward James Mims, Laura M. Cole, Personal Representative, Appellant,

v.

The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus, Respondents.

RECEIVED
DEC 13 2017
SC Court of Appeals

Appellate Case No. 2014-001373

Appellant's Return Opposing Respondent's Petition for Rehearing

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The Court should deny Respondents' petition for a rehearing in this case for the reasons set forth below and those argued in Appellant's opening and reply briefs.

1. Respondents ignore the clear intent of the legislature to extend the time for filing a complaint by five years.

The legislature clearly understood when it enacted the state tolling statute that defendants could be required to defend against claims occurring seven (for state agencies) or eight (for individuals) years before the lawsuit is filed. *Harrison v. Bevilacqua*, 354 S.C. 129, 140 n.5, 580 S.E.2d 109, 115 n.5 (2003) ("The

express language of the statute allows the time for commencement of an action to be 'extended' by a maximum of five years."). In the case of minors, a defendant may be required to defend against claims that arose as many as nineteen years before the lawsuit is filed. The only limitation the General Assembly imposed on these time frames was for medical malpractice claims involving adults, where the lawsuit must be brought within six years pursuant to S.C. Code 15-3-545. *Sims v. Amisub of S.C., Inc.* 414 S.C. 109, fn 7 (2015).

In 2015, the Supreme Court of the State of South Carolina declined in *Sims* to adopt a rule suggested by Respondents that would terminate the tolling period when a conservator has been appointed. 414 S.C. at fn 7. It has been fourteen years since the Supreme Court ruled in *Harrison v. Bevilacqua* that the tolling statute extends the time for filing a lawsuit by five years. 354 S.C. fn 5. The Court in that case was obviously aware that the rule requires defendants to defend seven or eight year old claims. The "Legislature is presumed to be aware" of the Supreme Court's interpretation of its statutes, including the five year extension under the state tolling statute. Id. at 117.

In the now seventeen years since a single district court judge in New Hampshire interpreted that State's tolling statute as ceasing when a guardian is appointed (without referring the question to the New Hampshire Supreme Court, as

the federal court should have done on such an issue of state law), the New Hampshire Supreme Court still does not appear to have adopted Judge McAuliffe's interpretation of the tolling statute.1

As discussed in Appellant's opening brief, the vast majority of states have ruled that the appointment of a guardian does not affect the state tolling statute. Appellant's opening brief at 12 - 13. See *Sullivan v. Chattanooga Medical Investors*, L.P., 221 S.W.3d 506, 513 (Tenn. Supreme Court 2007); *Weaver v. Edwin Shaw Hospital,* 104 Ohio St. 3d 390, 2003-Ohio-2488 (2004) ("The appointment of a guardian for a person within the age of minority or being of unsound mind neither removes the disabilityreferred to in R.C. 2305.16 nor commences the running of the statute of limitations."); *Young v. Key Pharmaceticals, Inc.*, 112 Wash. 2d 216, 222, 770 P.2d 182 (Wash. S.Ct. 1989) (the tolling statute "tolls the statute of limitations for a legally incompetent person notwithstanding the appointment of a guardian"); *Pardy v. United States,* 548 F.Supp. 682, 684 (S.D.Ill. 1982) (noting that Illinois courts have held that the appointment of a guardian does not affect the tolling provision with regard to a minor because "the minor is the true owner of the action.")

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[1] *Stewart* appears to have been cited in just one other district court ruling in New Hampshire, but on other grounds. *Jones v. McKenzie*, 2011 U.S. Dist. LEXIS 145319 (D.N.H. 2011).

For the reasons set forth in Appellant's opening brief and herein, Respondent's petition should be denied because the General Assembly extended the time for filing a lawsuit by a person like Mims for five years.

2. **Plaintiff's amended complaint pled all necessary elements of neglect, negligent supervision and gross negligence.**

Mims properly pled the elements of neglect, negligent supervision and gross negligence in his amended complaint. Not only did Mims demonstrate in his amended complaint and documents presented in opposition to Respondent's motion for summary judgment that the DDSN Defendants failed to exercise due care, but Mims also presented evidence demonstrating Defendants' conscious failure to observe due care. In *Wannamaker v. Traywick*, 136 S.C. 21 (1926), the Supreme Court held that "conscious failure to observe due care warrants a jury in giving not only actual damages, but punitive damages as well." Neglect may be proven by either direct or circumstantial evidence. *Merchant v. Columbia Coca-Cola Bottling Co.,* 214 S.C. 206 (1949), see also *Brown v. South Carolina Ins. Co.*, 284 S.C. 47 (Ct. App. 1984) and *Redman v. Ford Motor Co.*, 253 S.C. 266 (1969). Where, as here, considering "all facts and circumstances in the aggregate," there is evidence of neglect "in reasonable proximity of time," the case should be submitted to the jury. As the Supreme Court ruled in *Childers v. Gas Lines, Inc.*,

248 S.C. 316 (1966), where the injury was foreseeable, a defendant is not absolved from liability for wrongful acts due to intervening causes.

Supervisory officials in the "highest levels of state government" may be held liable where the supervisor has knowledge of the conduct engaged by a subordinate when, as here, that conduct poses a pervasive and unreasonable risk of constitutional injury to the plaintiff. *Shaw v. Stroud*, 13 F.3d 791, 798 (4th Cir. 1994). Mims established that the wrongful conduct complained of was "widespread," and far in excess of the "several different occasions" standard established in *Shaw*. Id. The continued inaction of Butkus and Lacy in the face of "documented widespread abuses" provides an "independent basis" for finding that they were deliberately indifferent of acquiesced in the constitutionally offensive conduct. Id. at 799. Mims presented evidence which a jury could find that these Defendants acted with deliberate indifference and that a causal link exists. Id. at 800. Mims has presented evidence to the lower court which would allow a jury to conclude that the response of these Defendants "was so patently inadequate as to justify an inference that the official actually recognized that his response to the risk of inappropriate under the circumstances." *Morris v. Bland,* 666 Fed. Appx. 233, 240 (4th Cir. 2016).

The record documents that Butkus and Lacy failed to exercise even a slight degree of care. Butkus admitted that it was under his direction that Mims was involuntarily committed to the custody of DDSN. R. at 2618-2619. He also admitted that he was the person responsible for making placement decisions (R. at 2567), that he was promptly notified when Mims was injured, normally within 24 hours for a serious injury (R. at 2576, 2559-2560, 2565, 2594), that the facility where Butkus first placed Mims was decertified by both federal and state regulatory authorities for failure to meet the applicable standard of care (R. at 2561-2562), that the decertification of Clusters resulted from a "pattern of failure to meet basic standards" (R. at 2564), that both he and Defendant Lacy were notified when Mims required treatment in the emergency room due to his bed being infested by ants (R. At 2574), and that he was responsible for determining "how did it happen, who's going to take care of it, how are we going to prevent it from occurring again, who's going to do what to deal with it" (R. at 2576, see also R. at 2677). Butkus admitted that it was his responsibility to assure that there was "proper supervision" of clients. (R. at 2678). It was also his responsibility to make sure that staff were terminated when clients were neglected. (R. At 2561-2562.) He acknowledged having notice that DHEC had declared Immediate Jeopardy at Kensington when Mim's roommate died. (R. at 2582.) But, instead of notifying

law enforcement about the "small wound" to Mim's penis, it was Butkus who, ignoring his mandatory reporting obligation, elected instead to send the agency's physician to investigate. (R. at 2584-2585). Butkus admitted that he and DDSN had responsibility for assuring that clients were "safe, free from harm, getting the services they're supposed to get when they're supposed to get it, that kind of thing." R. at 2591. He acknowledged that federal standards required DDSN to assure the health and welfare of clients. R. at 2592. These federal standards required DDSN to "provide necessary safeguards...where people would be in danger, possibly in danger to make sure that they're safe." R. at 2592-2593. He acknowledged that, as agency director, that was his responsibility. Id.

Lacy's job required her to follow "trend lines" on abuse and neglect in DDSN programs. R. at 2620, 2621. ("The tracking would be in Kathi's office, with her and her director of quality assurance and that sort of thing, her staff." R. at 2622.) Butkus and Lacy were both aware when Mims suffered the injury to his penis while left unsupervised that "the trend line still was not good." R. at 2620. Butkus and Lacy consulted with each other and decided not to allow Mims to be released when his mother appeared at Kensington with a court order for his release. R. at 2599.

The decision to contest the appointment of Mims' mother as his guardian and to file a brief in opposition to her appointment was also made at Butkus' direction. R. at 2603-2607. Butkus made a conscious decision to attempt to prevent Mims' discharge because he and Lacy determined that Mims' mother worked and she "didn't have a lot of resources, income was limited, things of that nature." R. at 2609-2614. He and Lacy determined "based on our professional assessment" that "...he was in that facility, we felt that was best for him." R. at 2611-2614. Despite having directed Babcock Center to reduce its bed capacity due to a high rate of abuse and neglect at the time of the injury to Mims' penis, Butkus and Lacy attempted to obstruct his discharge and to prevent his mother from being appointed as his permanent guardian. R. at 2647.

Respondents fail to mention in their memorandum that the controlling law in this case is *Madison v. Babcock Center*, where the plaintiff sued both Babcock Center and DDSN for negligence, gross negligence and willful indifference, as well as failing to properly supervise Madison's care. 371 S.C. 123 (2003).2 It is inconceivable that Respondents could argue in good faith that Mims "overlooked the absence of a supervisory connection between the Defendants and Babcock

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[2] As in this case, DDSN and the Babcock Center obstructed the attempts of Madison's parents to remove her from the Babcock Center. ("...both ignored the requests of her parents that she be released from Babcock Center." 371 S.C. at 133.)

Center," given not only the Supreme Court's ruling in *Madison*, but Butkus' own admission of his responsibility to supervise care provided in DDSN programs. Memo at 24. S.C. Code 44-20-420 provides that "The director or his designee may designate the service or program in which the client is placed," based on "the evaluation and assessment of the needs, interests, and goals of the client."3

The only assessment in the record determined that Mims required one-on-one supervision. R. at 310. After Edward was beaten by an employee in August, 2000, a crime that was witnessed and should have been immediately reported to law enforcement if he was receiving the level of supervision ordered, and his mother attempted to remove him from the Babcock Center, DDSN initiated proceedings to prevent his discharge, maliciously informing the probate court that he was being abused or neglected at home. R. 189-190, 219. See also affidavit of GAL at R. 291-293. The record shows that Defendants Butkus and Lacy were fully aware of the dangerous conditions that existed at the Babcock Center, yet they took no action at any time to protect Mims from further harm. Mims' attacker remained in the employment of the Babcock Center and was not arrested for more than a year. R. 305-306.

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[3] S.C. Code 44-20-430 provides that the director or his designee "has the final authority over applicant eligibility, determination, or services and admission order, subject to policies adopted by the commission."

Having removed the ability of Mims' mother to direct her son's care during the involuntary commitment to the custody of DDSN, Butkus, his "designee," Kathi Lacy, and DDSN voluntarily assumed liability to provide reasonable care treatment to him, which they breached. *Madison v. Babcock Center,* 371 S.C. at 143. As the Supreme Court held in *Madison*, the DDSN's defendants "may be held liable for breach of its common law duty where, as in this case, their negligence created a forseeable risk of and caused injury. Id. The Supreme Court ruled that the agency's duties included "adequately supervising the provision of services by another entity" and "its own conduct in relation to prior notice of inappropriate care of its clients by such entity." Id.

As the Supreme Court recognized in *Madison*, it was not necessary for Mims to establish that the Babcock Center employees who harmed him were employees of DDSN, because DDSN owed a separate "common law duty of care directly to Appellant." 371 S.C. 143. In *Madison,* the Supreme Court applied the following elements to prove negligence: (1) a duty of care owed by the defendant to the plaintiff, (2) a breach of that duty by a negligent act or omission, (3) damages suffered by Plaintiff, (4) which actually and proximately resulted from the breach. Id. at 656. Mims clearly pled that the DDSN Defendants had a duty of care, that they breached that duty, that Mims suffered injuries and a jury could determine that

those injuries proximately resulted from Defendants' breach. Mims' mother repeatedly requested that he be discharged from dangerous facilities overseen by DDSN and the individual defendants and none of the injuries after she sought to remove him in 2001 would have occurred but for Defendants' voluntary assumption of custody and care of Mims. R. 189-194 and chronology at R. 198-212.

Respondents ignore the exceptions established by the Supreme Court in *Madison* to the general rule that there is no general duty to control the conduct of another, or to warn a third person or potential victim of danger. Id. at 136. Exceptions to this rule include situations (1) where, as here, the defendant has a special relationship with the victim, (2) where the defendant has a special relationship with the injurer, (3) where, as here, the defendant voluntarily undertakes a duty, (4) where, as here, the defendant negligently or *intentionally*[4] creates the risk (by refusing to discharge Mims and obstructing her appointment as guardian); and (5) where, as here, federal and state statutes impose a duty on the defendant.

Mims has shown that the DDSN Defendants intentionally created the risk of harm to him when they refused to discharge him to the care of his mother in 2001,

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[4] Obviously, the Supreme Court does not consider intent and negligence to be mutually exclusive or "logically inconsistent."

and again in 2005, forcing him to remain in facilities they knew to be dangerous, and when they failed to properly monitor and supervise the services provided by the Babcock Center. Plaintiff provided the lower court with audits, investigations and reports putting the DDSN Defendants on notice of the dangerous conditions at the Babcock Center, and, specifically, the injuries suffered by Mims. The Attorney General forwarded the letter sent by Mims' mother begging that he be released. R. 227- 231. DDSN responded by recognizing that Mims' "significant special needs and complex medical conditions" required "more staffing and supervision than any one person could possibly provide." R. at 232. DDSN determined that "several different people have to be awake and around him all the time." R. at 232. Yet, no one appeared to be around Mims when he repeatedly suffered "unexplained" injuries that should have been immediately reported and explained had he been provided the constant supervision Defendants determined that he needed.

The Supreme Court ruled in *Madison* that DDSN has a common law duty of care directly to persons receiving services from the Babcock Center and that the fact that a third party may have committed the criminal act harming the victim "does not affect the existence of Department's duty." 371 S.C. 143. This is because "the "Department remains under a duty to provide reasonable care and treatment to its clients," which Mims has demonstrated that the DDSN Defendants failed to do.

Id. Where DDSN and its officials fail to adequately supervise the provision of services by another entity or, by their own conduct in relation to prior notice of inappropriate care of its clients by the entity, the Supreme Court ruled that they "may be held liable for breach of its common law duty provided such negligence creates a forseeable risk of and causes injury." Id. As in that case, the issue of whether the DDSN defendants "acted negligently is a matter of factual issue for the jury." Id. at 144. Mims has provided extensive evidence demonstrating that the harms he suffered were forseeable.

None of the DDSN Defendants were under a duty to file a petition for the involuntary commitment of Edward Mims - they voluntarily acted maliciously and intentionally to prevent his discharge by falsely accusing his mother of failing to provide appropriate care at home. As a social worker and nurse, Defendants Butkus and Lacy were mandated reporters obligated to report abuse occurring in Mims' home to the Department of Social Services, which they consciously failed to do. S.C. Code 43-35-25. They were obligated to report the beating by Carl Anthony to law enforcement, which they also failed to do. Indeed, the applicable statue does not even authorize DDSN or its officials to petition the probate court for involuntary commitment to its facilities. S.C. Code 44-20-450.

3. **Individual Defendants Butkus and Lacy are not immune from suit, because there is evidence in the record that they may have acted with malice, and an intent to harm Mims, acting outside of the scope of their official duties and in violation of 42 U.S.C. 1983.**

S.C. Code Ann. § 15-78-70(b) (Supp. 2002) lifts the immunity normally enjoyed by governmental employees when they act outside the scope of their employment or their actions constitute fraud, malice, an intent to harm, or a crime of moral turpitude. *Pridgen v. Ward,* 391 S.C. 238, 244 (S.C.Ct.App. 2010). This Court correctly ruled that the record Mims has presented demonstrates that "fraud, actual malice, or an intent to cause harm" might be present, slip op. at 10-11, quoting S. C. Code Ann. § 15-78-60(17).

Mims has shown that Defendants Butkus and Lacy had personal, non-employment related reasons for covering up the abuse Mims suffered and preventing his discharge from the Babcock Center. *Pridgen v. Ward,* 391 S.C. 238, 244 (S.C.Ct.App. 2010). Section 15-78-70(b) provides:

> Nothing in the chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.

Not only were DDSN, Butkus and Lacy under a common law duty to protect Mims from harm, Mims has alleged that they violated his constitutional right to

liberty, as well as statutes and regulations established by Congress, CMS and the South Carolina General Assembly by confining him in an institution. In *Olmstead v. L.C.*, the United States Supreme Court ruled that persons who have disabilities are entitled to receive services in the least restrictive setting. 527 U.S. 581 (1999). Throughout the state statutes DDSN is obligated to operate under, the General Assembly expressed its intent that services must be provided in the least restrictive setting, defined in S.C. Code 44-20-30 as "the surrounding circumstances that provide as little intrusion and disruption from the normal pattern of living as possible."5 But, throughout his confinement, Butkus kept Mims in ICF/MR facilities, the most restrictive setting in which DDSN provides services.

Chapter 21 of Title 44 expresses the legislative intent that persons with intellectual disabilities be provided the supports necessary to allow DDSN clients to live with their families at home. S.C. Code 44-21-10. But, instead of providing Mims' mother with the supports she needed to provide care for her son at home, when he was beaten in a DDSN ICF/MR and his mother reported the crime to the Attorney General, Defendant Butkus caused Mims to be involuntarily committed

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[5] S.C. Code 44-20-480 provides that clients must be placed in the "least restrictive level of care possible..." Butkus was responsible for providing a range of placements offering various levels of supervision, but, instead placed Mims where he did not receive an appropriate level of supervision. Id.

and kept him in the most restrictive facilities where he knew clients were being abused and neglected. R. at 2605-2611.

Defendants also violated federal standards including, but not limited to those which required Defendants to provide a choice of institutional or community based services, to provide services in the amount, duration and scope necessary to meet the needs of the Medicaid participant and to provide services with reasonable promptness. In *Doe v. Kidd*, 501 F.3d 348 (4th Cir. 2007), the Fourth Circuit ruled that Medicaid participants have a private right of action to enforce the Medicaid Act through a Section 1983 action. It is undisputed that both facilities where Defendant Butkus placed Mims, Clusters and Kensington, were repeatedly found to be in violation of federal standards for the operation of those facilities. R. at 1219-2780.

It was not within the scope of Defendants' official duties to force Mims to remain in an institutional setting and to prevent his discharge from Babcock Center. S.C. Code 15-78-30(i) defines "scope of official duty" as "(1) acting in and about the official business of a governmental entity and (2) performing official duties." S.C. Code Ann. § 15-78-30(i) (2005). As discussed above, neither DDSN nor Defendant Butkus were authorized by S.C. Code 44-20-450 to petition the probate court to involuntarily commit Mims to DDSN in the first place. Mims

argued in his amended complaint that the DDSN Defendants were aware of systemic abuse, neglect and exploitation of clients living at the Babcock Center (AC at ¶ 14), that those defendants failed to report abuse and neglect of Mims to appropriate authorities (AC at ¶ 15, and that, instead, in retaliation, they accused Mims' mother of neglecting and/or abusing him at ¶ 16. They "threatened Plaintiffs' mother that she would not be able to see her son if she contested the involuntary appointment."[6] ¶ 21. When Mims was beaten again on or about December 16, 2001 and his mother again attempted to secure his release, DDSN sent a letter to her saying that he could not be discharged because "several different people have to be awake and around him all the time." ¶ 26. Yet, less than a month later, Mims was again beaten, this time with a belt, "suffering abrasions and contusions and requiring treatment in the emergency room." ¶ 27.

Butkus and Lacy were both well aware that the rate of substantiated abuse, neglect and exploitation at Babcock Center was four times the state-wide average. ¶ 33. Mims continued to be subjected to ongoing and unexplained injuries at Kensington. R. at 3234-3373. Despite refusing to release Mims because he must have several persons awake and around him all the time, on July 27, 2004, Mims

[6] Mims also presented sworn affidavits documenting Defendants' pattern of retaliation against family members who complain about their services. R. at 3212-3453.

was treated for "ant bites all over," an injury which could not have occurred had he been provided the one-on-one supervision ordered by Dr. Platt.7

After CMS declared immediate jeopardy at the facility due to "inadequate training, understaffing, failure to conduct thorough investigations and failure to take appropriate actions to assure client protections," deficiciencies that placed Mims and other residents at risk of serious harm, Defendants Butkus and Lacy continued to obstruct his release from Kensington, even after the probate court issued an order authorizing his mother to remove him from the dangerous facility. ¶¶ 31 and 32. Even after his court-ordered release, DDSN, Butkus and Lacy made a conscious decision to prevent Mims' mother from being appointed as his permanent legal guardian. R. at 3234-3373.

Even after the facility where Butkus had placed Mims was decertified due to additional findings of Immediate Jeopardy by CMS, Butkus failed to take necessary action to remove Mims from the dangerous facility when families of other clients at Kensington were notified that they should remove their loved ones from the facility due to Babcock Center's failure to remedy Immediate Jeopardy violations. Instead of reporting the sexual assault to law enforcement, Butkus

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[7] The study by the University of South Carolina School of Public Health shows that this infestation was not, as Defendants claim, a one-time-occurrence. R. at 1616.

caused a DDSN physician to "investigate" Mims' injuries.8 Rape protocol was not followed and Butkus took no remedial action when the evidence of the sexual assault was destroyed.9

Mims provided the trial court with credible evidence that his constitutional liberty rights were violated by the DDSN defendants, including Butkus and Lacy. Mims presented evidence that Defendants "failed to monitor Plaintiff's condition and treatment needs after involuntarily committing him to the custody of the State." Amended complaint at ¶ 65. Mims presented the trial court with evidence that the individual defendants "caused him to be subjected to deprivation of his rights, privileges or immunities secured by the Constitution and laws of the United States, including not only his right to liberty, but also to equal protection and to be secure in one's person and property against unreasonable seizure. ¶ 66. Contrary to Respondent's arguments, in the Petition, Mims alleged that Defendants Butkus and Lacy were "motivated by evil motives and intent and showed reckless and callous

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[8] DDSN's physician, Dr. Johnson, determined that the injury to Mims' penis was not self inflicted. R. at 3064.

[9] Even after Mims was removed by appointment of his mother as temporary guardian in June, 2005, and later as permanent guardian in 2005, DDSN continued to pay his "band payment" to the Babcock Center, despite Mims not receiving a single service from that organization.

indifference" to his federally protected rights, entitling him to an award of punitive damages, attorney's fees and expenses. ¶ 69-70.

This Court correctly ruled that he presented evidence that would demonstrate "fraud, actual malice, or an intent to cause harm," considering, as the Court must, the facts in a light most favorable to Mims. Summary judgment should be granted only where it is clear that no issue of fact is involved and inquiry into the facts is not desirable to clarify the application of the law. *McQuaig v. Brown, S.C.,* 242 S.E. (2d) 688 (1978). Mims has shown that throughout his confinement, Butkus and Lacy intended to prevent his release in order to protect themselves and their agency for personal reasons not related to his official duties.

4. **Respondents ignore the significance of Mims bringing this action in his important role as private attorney general.**

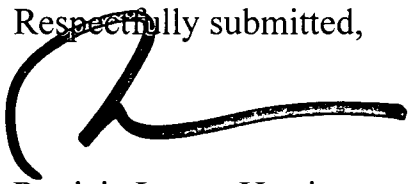
Respondents argue on page 19 that there should be no relaxation of the procedural rules, because "there is no suggestion that the money would go to a minor or disabled person," since Mims has died. But, this argument ignores his important role as a "private attorney general" to vindicate a policy that Congress considered of the highest priority. *Newman v. Piggie Park Enterprises, Inc.*, 390 U.S. 400 (1968). Mims has shown that the violations he complains of are systemic

and that they affect thousands of the most vulnerable citizens in South Carolina, and their families.

5. Conclusion.

For the reasons set forth herein and those set forth in his opening and reply briefs, Mims prays that this Court will deny Respondent's Petition for Rehearing.

Respectfully submitted,



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December 11, 2017

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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

Case No. 2007-CP-40-3365
Appellate Case No. 2014-001373

Estate of Edward James Mims,
Laura M. Cole, Personal Representative,..... Appellant,

v.

The South Carolina Department of Disabilities and
Special Needs, Kathi Lacy, and Stan Butkus,..... Respondents.

CERTIFICATE OF SERVICE

The Appellant's **Return Opposing Respondents' Petition for Rehearing** was sent to Respondents' counsel, Kenneth P. Woodington, Esq., and William H. Davidson, II, Esq., Davidson & Lindemann, P.A., P.O. Box 8568, Columbia, SC 29202-8568 by Priority United States Mail.

December 11, 2017

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December 11, 2017

The Honorable Jenny Abbott Kitchings
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South Carolina Court of Appeals
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Re: **Estate of Edward Mims v. SCDDSN**
Appellate Case No. 2014-001373

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven copies of the Appellant's **Return Opposing Repsondents' Petition for Rehearing**. Also enclosed is a **Certificate of Service**. Please clock and return in the enclosed, stamped envelope the copy of this letter, one copy of the **Return** and the copy of the **Certificate**.

Thank you for your assistance in this matter.

Sincerely yours,

Patricia Logan Harrison

c: Kenneth P. Woodington, Esq.
William H. Davidson, II, Esq.

PLH:jnh

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