

STATE OF SOUTH CAROLINA  
In the Supreme Court

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CERTIORARI TO AIKEN COUNTY  
Court of Common Pleas

**RECEIVED**

The Honorable Robert E. Hood, Post-Conviction Relief Court Judge  
The Honorable Doyet A. Early, III, Plea Judge

FEB 08 2019

S.C. SUPREME COURT

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Appellate Case No. 2016-002284

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ISAAC STARKE,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

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**MOTION TO DISMISS APPEAL  
DUE TO DEATH OF PETITIONER ISAAC STARKE**

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Respondent (the State of South Carolina), through its undersigned counsel, would respectfully show unto the Court as follows:

**I.**

Petitioner Isaac Starke was indicted by the Aiken County Grand Jury for one count of second-degree criminal sexual conduct with a minor and four counts of third-degree criminal sexual conduct with a minor based on his sexual assault of his minor daughter.

On May 13, 2013, Petitioner appeared in the Aiken County Court of General Sessions before the Honorable Doyet A. Early, III, circuit court judge, to enter guilty pleas to one count of second-degree criminal sexual conduct with a minor and one counts of third-degree criminal sexual conduct with a minor. The only negotiations between Petitioner and the State were for the dismissal of the other three third-degree criminal sexual conduct with a minor charges, but there

was no negotiation or recommendation as to sentence. Sentencing was deferred until May 15, 2013, when Judge Early sentenced Petitioner for fifteen years imprisonment for both offenses. Petitioner did not appeal his guilty pleas or sentences.

On April 7, 2014, Petitioner filed an application for post-conviction relief. Respondent filed its return to the application and requested an evidentiary hearing on the application. An evidentiary hearing into the application and amendment was convened September 20 & 23, 2016, in the Aiken County Court of Common Pleas before the Honorable Robert E. Hood, circuit court judge. Thereafter, the post-conviction relief court denied and dismissed the application.

Petitioner filed a notice of appeal challenging the denial of post-conviction relief and subsequently filed a petition for a writ of certiorari with the Court. Respondent filed its return to the petition. This Court granted certiorari and instructed parties to file briefs as provide by Rule 243(i), SCRCR. Both parties have filed substantive briefs and the appeal is pending before this Court.

## II.

During the pendency of the appeal, undersigned counsel for the State received notice Petitioner passed away while incarcerated in a correctional facility, and, on January 31, 2019, the South Carolina Department of Correction provided confirmation of Petitioner's death.<sup>1</sup> As a result of Petitioner's death, Petitioner's appeal from the denial of his post-conviction relief action challenging his conviction is now moot. See Sloan v. Greenville Cty., 380 S.C. 528, 535, 670 S.E.2d 663, 667 (Ct. App. 2009) ("An appellate court will not pass judgment on moot and academic questions; it will not adjudicate a matter when no actual controversy capable of specific relief exists. A case becomes moot when judgment, if rendered, will have no practical

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<sup>1</sup> A copy of the death certificate confirming his death is attached as Attachment "A."

legal effect upon the existing controversy. Mootness also arises when some event occurs making it impossible for the reviewing court to grant effectual relief.” (citations omitted)). Accordingly, Respondent respectfully moves for this Court to dismiss Petitioner’s appeal as resolution of the appeal is no longer necessary in light of his death. See State v. Anderson, 281 S.C. 198, 199, 314 S.E.2d 597, 597 (1984) (holding a criminal defendant’s death prior to the conclusion of an appeal constitutes grounds for dismissal); cf. State v. Miller, 409 S.C. 312, 312, 762 S.E.2d 394, 394-395 (2014) (dismissing an appeal as moot subsequent to the death of Miller during the pendency of the appeal).

**WHEREFORE**, Respondent prays this Court will dismiss the Appellant’s appeal in the case of Isaac Starke v. State, Appellate Case No. 2016-002284; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General  
S.C. Bar No. 100108

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3737

February 8, 2019

State of South Carolina  
Department of Health and Environmental Control  
**CERTIFICATE OF DEATH**

State Birth Number

State File Number  
19 000790

1. DECEDENT'S LEGAL NAME (Include AKA's, if any) (First, Middle, Last) Isaac Laird Starke Sr <b>355498</b>			2. SEX Male		3. SOCIAL SECURITY NUMBER [REDACTED]					
4a. AGE-Last Birthday (Years) 52		4b. UNDER 1 YEAR Months: Days:		4c. UNDER 1 DAY Hours: Minutes:		5. DATE OF BIRTH (MM/DD/YYYY) [REDACTED] 966		6. BIRTHPLACE (City and State or Foreign Country) Richmond, VA		
7a. RESIDENCE-STATE South Carolina			7b. COUNTY Richland			7c. CITY OR TOWN Columbia				
7d. STREET AND NUMBER 4460 Broad River Road				7e. APT. NO.		7f. ZIP CODE 29210		7g. INSIDE CITY LIMITS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
8. EVER IN US ARMED FORCES? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		9. MARITAL STATUS AT TIME OF DEATH <input type="checkbox"/> Married <input type="checkbox"/> Married, but separated <input type="checkbox"/> Widowed <input checked="" type="checkbox"/> Divorced <input type="checkbox"/> Never Married <input type="checkbox"/> Unknown			10. SURVIVING SPOUSE'S NAME (If wife, give name prior to first marriage)					
11. FATHER'S NAME (First, Middle, Last) Willie Leonard Starke Jr					12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last) Irene Laverne Hatch					
13a. INFORMANT'S NAME Isaac L Starke Jr			13b. RELATIONSHIP TO DECEDENT Son		13c. MAILING ADDRESS (Street and Number, City, State, Zip Code) [REDACTED]					
14. PLACE OF DEATH (Check only one; see instructions) <input type="checkbox"/> Inpatient <input type="checkbox"/> Emergency Room/Outpatient <input type="checkbox"/> Dead on Arrival <input type="checkbox"/> Nursing home/Long term care facility <input type="checkbox"/> Decedent's home <input checked="" type="checkbox"/> Other (Specify) <i>Broad River Correct Insti</i>					15. FACILITY NAME (If not institution, give street and number) 4460 Broad River Road					
16. CITY OR TOWN, STATE AND ZIP CODE Columbia South Carolina 29210			17. COUNTY OF DEATH Richland			18. METHOD OF DISPOSITION <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Donation <input type="checkbox"/> Entombment <input type="checkbox"/> Removal from state <input type="checkbox"/> Other (Specify)			19. PLACE OF DISPOSITION (Name of Cemetery, crematory, other place) Williston Cemetery	
20. LOCATION-CITY, TOWN AND STATE Williston, South Carolina			21. NAME AND ADDRESS OF FUNERAL FACILITY Folk Funeral Home Inc.							
22. SIGNATURE OF FUNERAL SERVICE LICENSEE OR OTHER AGENT Billy A. Williams III (Electronically Verified)			23. LICENSE NUMBER (Of Licensee) 3698		P.O. Box 367 Williston SC 29053-0367					
23a. EMBALMER (Signature) Ronald D Rogers			23b. EMBALMER LICENSE NUMBER 1569		23c. LICENSE NUMBER (Of Facility) 983					
24. DATE PRONOUNCED DEAD (MM/DD/YYYY) 01/06/2019			25. TIME PRONOUNCED DEAD 10:50 AM			26. SIGNATURE OF PERSON PRONOUNCING DEATH (Only when applicable)				
27. LICENSE NUMBER			28. DATE SIGNED (mm/dd/yyyy)							
29. ACTUAL OR PRESUMED DATE OF DEATH (Spell Month) Est Jan 05, 2019 to Jan 06, 2019			30. ACTUAL OR PRESUMED TIME OF DEATH Est 20:00 to 04:00 AM			31. WAS CORONER OR MEDICAL EXAMINER CONTACTED? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
32. PART I. Enter the <u>chain of events</u> - disease, injuries, or complications - that directly caused the death. DO NOT enter terminal events cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. Enter only one cause on a line. Add additional lines if necessary. IMMEDIATE CAUSE (Final disease or condition resulting in death) a. <u>Asphyxiation</u> Due to (or as a consequence of): Sequentially list conditions, if any, leading to the cause listed on line a. Enter the UNDERLYING CAUSE (disease or injury that initiated, the events resulting in death) LAST b. <u>Ligature strangulation</u> Due to (or as a consequence of): c. _____ Due to (or as a consequence of): d. _____ Due to (or as a consequence of): PART II. Enter other significant conditions contributing to death, but not resulting in the underlying cause given in PART I.									Approximate interval Onset to death	
35. DID TOBACCO USE CONTRIBUTE TO DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> Probably <input type="checkbox"/> No <input checked="" type="checkbox"/> Unknown			36. IF FEMALE: <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to one year before death <input type="checkbox"/> Unknown if pregnant within the past year			37. MANNER OF DEATH <input type="checkbox"/> Natural <input checked="" type="checkbox"/> Homicide <input type="checkbox"/> Accident <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Suicide <input type="checkbox"/> Could not be determined				
38. DATE OF INJURY (Spell Month) Est Jan 05, 2019 to Jan 06, 2019		39. TIME OF INJURY Est 20:00 to 04:00 AM		40. PLACE OF INJURY (e.g. Decedent's home, construction site, restaurant, wooded area) SC Department of Corrections			41. INJURY AT WORK? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
42. LOCATION OF INJURY: State: South Carolina City or Town: Columbia County: Richland										
43. DESCRIBE HOW INJURY OCCURRED: Hanging			44. IF TRANSPORTATION INJURY, SPECIFY: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Pedestrian <input type="checkbox"/> Passenger <input type="checkbox"/> Other (Specify)							
45. CERTIFIER (Check only one) <input type="checkbox"/> Certifying physician-To the best of my knowledge, death occurred due to the cause(s) and manner stated. <input type="checkbox"/> Pronouncing and Certifying physician-To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner stated <input checked="" type="checkbox"/> Coroner/Medical Examiner-On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated Signature of certifier: Michelle C. Barnhill (Electronically Certified)										
46. NAME, ADDRESS, AND ZIP CODE OF PERSON COMPLETING CAUSE OF DEATH (Item 32) Michelle C. Barnhill, 6300 Shakespeare Road Columbia South Carolina 29223					46a. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER					
47. TITLE OF CERTIFIER Deputy Coroner		48. LICENSE NUMBER		49. DATE CERTIFIED (MM/DD/YYYY) 01/09/2019		50. FOR REGISTRAR ONLY- DATE FILED (MM/DD/YYYY) 01/09/2019				
51. DECEDENT'S EDUCATION- Check the box that best describes the highest			52. DECEDENT OF HISPANIC ORIGIN?-Check the box that best describes whether the decedent is			53. DECEDENT'S RACE-(Check one or more races to indicate				

NAME OF DECEDENT  
For use by physician or institution

Items 1-23c To Be Completed/Verified By: FUNERAL DIRECTOR

Items 24-49 To Be Completed By: MEDICAL CERTIFIER

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**S.C. SUPREME COURT**

The Honorable Robert E. Hood, Post-Conviction Relief Court Judge  
The Honorable Doyet A. Early, III, Plea Judge

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Appellate Case No. 2016-002284

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ISAAC STARKE,

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Respondent.

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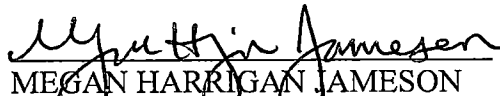
**PROOF OF SERVICE**

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I, Megan Harrigan Jameson, certify I have served the within Motion to Dismiss Appeal Due To Death of Petitioner Isaac Starke on Petitioner by depositing two copies of the same in the interagency mail, addressed to:

David Alexander, Esquire  
S.C. Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.  
This 8th day of February, 2019.

  
MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3737



ALAN WILSON  
ATTORNEY GENERAL

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FEB 08 2019

S.C. SUPREME COURT

February 8, 2019

The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

**Re: Isaac Starke v. State of South Carolina**  
**Appellate Case No. 2016-002284**

Dear Mr. Shearouse:

Enclosed please find the original and six copies of the Motion to Dismiss Appeal Due To Death of Petitioner Isaac Starke in the above-referenced post-conviction relief appeal for filing with the Court. Petitioner is simultaneously being served with a copy of this brief.

Please let me know if I can provide anything additional to the Court on this matter.

Sincerely,

Megan Harrigan Jameson  
Senior Assistant Deputy Attorney General

MHJ/ks

cc: David Alexander, Esquire  
Victim Advocacy Division (without enclosure)