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S.C. SUPREME COURT

ALAN WILSON  
ATTORNEY GENERAL

October 17, 2019

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

Re: *The State v. Terrell Artieth Smith* – 2017-001178

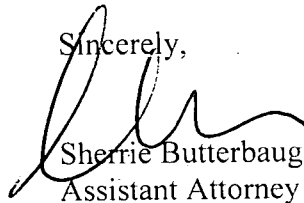
Dear Mr. Shearouse:

On October 10, 2019, the Court granted a motion by Justice 360 and Cornell Juvenile Project to file a brief as Amicus Curiae in support of Appellant in the above-entitled case. The Court also gave Respondent ten days to file a reply. In lieu of a formal brief in response, Respondent notes the following for the Court's consideration following the oral argument of October 15, 2019:

The issue regarding functional equivalency was not made in Appellant's brief and not relied upon as a reason to grant relief. Appellant similarly did not rely on the data presented in the amicus brief nor was the data subjected to adversarial testing in Appellant's case. Lastly, the amicus brief does not address any individualized sentencing concern which is the core of the *Aiken* guarantee. Therefore, the brief does not address the precise issue currently presented and pending before the Court. *See* Rule 213, SCACR ("The brief shall be limited to argument of the issues on appeal as presented by the parties.").

Thank you for allowing Respondent the opportunity to reply. And thank you for your assistance in this matter.

Sincerely,

  
Sherrie Butterbaugh  
Assistant Attorney General

cc: Lara M. Caudy, Esq.  
John H. Blume, III, Esq.  
Lindsey S. Vann, Esq.  
The Honorable Scarlett A. Wilson, Solicitor, Ninth Judicial Circuit