

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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OCT 08 2020

Appeal from the Administrative Law Court  
The Honorable H. W. Funderburk, Jr., Administrative Judge SC Court of Appeals

Appellate Case No. 2020-001074

THE STATE,.....APPELLANT

v.

JAMES ROBERT BYRD,.....RESPONDENT

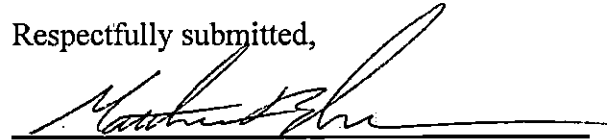
**MOTION TO DISMISS APPEAL AS MOOT  
DUE TO DEATH OF JAMES ROBERT BYRD**

Comes now, Matthew Buchanan, General Counsel for the South Carolina Department of Probation, Parole and Pardon Services (the Department), and respectfully requests that the above referenced matter be dismissed. On July 30, 2020, the Department appealed the order of the Honorable H.W. Funderburk, Jr., Administrative Law Judge, dated and filed July 23, 2020. On October 6, 2020, the Department was advised by the South Carolina Department of Corrections that the Respondent passed away on September 17, 2020. As a result of Byrd's death, Appellant's appeal is therefore moot. See *Sloan v. Greenville Cty.*, 380 S.C. 528, 535, 670 S.E.2d 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 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, the State respectfully moves for this Court to grant dismissal of its appeal as resolution of the appeal is no longer necessary in light of the Respondent’s 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).

Respectfully submitted,



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**Matthew C. Buchanan**  
**General Counsel**

South Carolina Department of Probation,  
Parole, and Pardon Services  
P.O. Box 207  
Columbia, South Carolina 29202  
(803) 734-9220

Attorney for the Appellant

Columbia, South Carolina  
October 7, 2020

## Dawn K. Nichols

---

**From:** Candi Cannon (CannonC) <Cannon.Candi@doc.sc.gov>  
**Sent:** Tuesday, October 6, 2020 9:41 AM  
**To:** Dawn K. Nichols  
**Subject:** RE: James Byrd, #98230

**Importance:** High

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

This inmate passed away on September 17, 2020. I do not have the cause of death at this time.

Candi L Cannon  
Assistant Division Director  
Central Classification  
Division of Classification and Inmate Records  
803-896-2157

---

**From:** Dawn K. Nichols <Dawn.Nichols@ppp.sc.gov>  
**Sent:** Tuesday, October 6, 2020 9:37 AM  
**To:** Candi Cannon (CannonC) <Cannon.Candi@doc.sc.gov>  
**Subject:** James Byrd, #98230

**\*\*\* This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source. \*\*\***

Good morning, we have a pending appeal on the above and according to our system, it says he has been released. Can you verify this for me?

Dawn Nichols, Executive Assistant  
Division of Legals and Policy Management  
S.C. Department of Probation, Parole and Pardon Services  
Post Office Box 207  
Columbia, S.C. 29202  
Office (803) 734-9051

*Culture: That which has been planted has been allowed to grow!*

The contents of this email message and any attachments are intended solely for the addressee(s) and may contain confidential and/or privileged information and may be legally protected from disclosure. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

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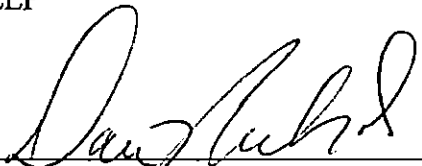
**CERTIFICATE OF SERVICE**

I, Dawn Nichols, Executive Assistant, hereby certify that this 7th day of October, 2020, I served the following documents:

1. Motion to Dismiss Appeal; and
2. Certificate of Service.

by first class mail, postage prepaid as follows:

Amber Hendrick, Esquire  
Nelson Mullins Riley & Scarborough LLP  
1320 Main Street, 17<sup>th</sup> Floor  
Columbia, South Carolina 29201



**Dawn Nichols**  
**Executive Assistant**  
South Carolina Department of  
Probation, Parole and Pardon Services  
P. O. Box 207  
Columbia, South Carolina 29202  
(803) 734-9220

State of South Carolina  
Department of Probation, Parole and Pardon Services

HENRY McMASTER  
Governor



JERRY B. ADGER  
Director

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SC Court of Appeals

October 7, 2020

The Honorable Jenny Kitchings  
Clerk, South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, South Carolina 29211

RE: James Byrd v. SCDPPPS  
Case No.: 20-001074

Dear Ms. Kitchings:

Please find enclosed the original and six copies of Appellant's Motion to Dismiss Appeal as Moot.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew C. Buchanan", written over a horizontal line.

Matthew C. Buchanan  
General Counsel

MCB:dn  
Enclosures

cc: Amber M. Hendrick, Esquire

State of South Carolina  
Department of Probation, Parole, and Pardon Services  
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The Honorable Jenny Kitchings  
Clerk, South Carolina Court of Appeals  
P. O. Box 11629  
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