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October 15, 2020

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

RECEIVED

Oct 15 2020

S.C. SUPREME COURT

Re: *State of South Carolina v. Luzenski Allen Cottrell*
Case No. Case No. 2018-CP-26-05709
60 Day Status Report

Dear Mr. Shearouse:

This letter is the sixty-day status report pursuant to *In re Stays of Execution in Capital Cases*, 321 S.C. 544, 471 S.E.2d 140 (1996).

By letters dated April 14, 2020, June 16, 2020, and August 17, 2020, we reported the COVID-19 pandemic limited Mr. Cottrell's prehearing investigation, our mitigation investigation requires travel to New York, North Carolina, Georgia, Alabama, and Texas, and the parties agreed to postpone depositions "as part of the COVID-19 safety measures." We also reported Judge John scheduled a status conference for Thursday, August 27, 2020. The August 17, 2020 letter also discussed our understanding of the stay provision of this Court's Order No. 2020-04-22-01, Section (c)(8) and provided an assessment of the impact of COVID-19 on Mr. Cottrell's pre-hearing investigation.

On August 27, 2020, Judge John convened a status conference via WebEx, during which counsel for Mr. Cottrell informed the PCR court they will not be prepared for an evidentiary hearing to commence on December 7, 2020. Judge John allowed the parties to submit additional information. On September 3, 2020, Mr. Cottrell served a Motion to Enforce South Carolina Supreme Court Order No. 2020-04-22-01 and to Issue a New or Amended Scheduling Order that Considers the Impact the COVID-19 Emergency Has on Mr. Cottrell's Ability to Proceed with His Mitigation Investigation. On September 16, 2020, in an addendum to this motion, Mr. Cottrell proposed a revised schedule based on the memorandum from the Chief Justice dated September 14, 2020 regarding trial court operations. On October 13, 2020, Judge John issued the Third Amended Scheduling Order.

The parties are scheduling the previously postponed depositions. On October 2, 2020, Mr. Cottrell took the Rule 30(b)(6), SCRCF deposition of the Fifteenth Circuit

Solicitor's Office, during which the Solicitor's Office asserted a work product privilege.¹ On October 6, 2020, Mr. Cottrell moved to compel compliance with his subpoena. This motion is still pending.

Finally, on October 13, 2020, the Department of Corrections reported 415 inmates have tested positive for COVID-19 at Broad River Correctional Institution, which is the location of our state's death row. Of this total, 202 inmates have active cases, 204 inmates have cleared cases, and nine inmates have died. Currently, death row is quarantined for the second time. The first quarantine occurred after an infected correctional officer potentially exposed the inmates to COVID-19. During the current quarantine, four inmates have tested positive for COVID-19, one of which was temporarily hospitalized at an outside medical facility.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,

s/E. Charles Grose, Jr.
E. Charles Grose, Jr.

cc: The Honorable Steven H. John
Brie Russell, Esquire
Hannah Freedman, Esquire
Melody J. Brown, Esquire
Joe Maye, Esquire

¹ The parties agreed to—and followed—COVID-19 safety protocols during the deposition. The only people physically present for the deposition were Solicitor Richardson, his counsel, Mr. Grose, and Mr. Maye. Everyone wore masks during the deposition and had the option to sit at least six feet away from the other people physically present. The court reporter and Ms. Freedman attended by Zoom. Ms. Brown had the option to attend the deposition by Zoom but chose not to attend.