

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

On Petition for Writ of Certiorari to Jasper County

The Honorable Michael G. Nettles, Plea Judge
The Honorable Jennifer B. McCoy, PCR Judge

Appellate Case No. 2020-000047

TRAVIS A. LEE,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

MOTION TO DISMISS

Respondent hereby moves before this Court to dismiss this appeal as moot. In support of this motion, counsel shows the following:

1. On May 13, 2016, Petitioner pleaded guilty before the Honorable Michael G. Nettles, and was sentenced to imprisonment for an aggregate term of eighteen years.
2. On March 27, 2017, Petitioner filed an application for post-conviction relief.
3. Following an evidentiary hearing, the Honorable Jennifer B. McCoy denied Petitioner's application for post-conviction relief in an order issued on October 23, 2019.
4. Petitioner then filed a notice of appeal and a petition for a writ of certiorari in

this Court.

5. During the pendency of this appeal, Respondent received notice that Petitioner passed away while incarcerated at Lee Correctional Facility.
6. As can be seen from the attached certificate of death, which is incorporated in this motion as “Attachment A”, Petitioner died on November 18, 2020.
7. “A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract.” Sloan v. Friends of Hunley, Inc., 369 S.C. 20, 25-26, 630 S.E.2d 474, 477 (2006) (finding the litigation was moot when, among other things, Friends of Hunley, Inc., provided all documents requested by Sloan in accordance with the Freedom of Information Act) (citing Byrd v. Irmo High School, 321 S.C. 426, 468 S.E.2d 861 (1996)).
8. This Court has also held that “[a] case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for reviewing Court to grant effectual relief.” Mathis v. South Carolina State Highway Department, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973) (finding the Department’s appeal from the trial court’s order directing the Department to revoke its suspension of Mathis’s driver’s license was moot when Mathis became entitled to the return of his driver’s license before the Supreme Court issued its opinion).
9. The death of an applicant during the pendency of his post-conviction relief action renders the action moot. See State v. Anderson, 281 S.C. 198, 314 S.E.2d

597 (1984) (holding the death of a criminal appellant before the disposition of his appeal abates the appeal and constitutes grounds for dismissal) (citations omitted).

10. Because Petitioner has died, this Court cannot now grant effectual post-conviction relief to him. As a result, the appeal is moot and should be dismissed.
11. Counsel for Petitioner notified the undersigned by email today that she does not oppose this motion.

WHEREFORE, Respondent prays that this Court will dismiss this appeal as moot and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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