

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

BRAD KEITH SIGMON,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

ADDENDUM TO
RESPONSE IN OPPOSITION TO MOTION
FOR TEMPORARY STAY OF EXECUTION

Respondent files this addendum to the response in opposition filed January 14, 2021. Respondent initially opposed Sigmon’s motion to stay the setting of an execution date, or otherwise stay the execution procedure. The Clerk has since issued the Notice of Execution, on January 21, 2021, which triggered the setting of the date. The date of execution is currently set for February 12, 2021. After the notice was issued, Sigmon requested this Court consider his motion under *In re Stays of Execution in Capital Cases*, 321 S.C. 544, 548, 471 S.E.2d 140, 142 (1996). That motion is still pending.

One point of argument in the motion and response centered on the election of the method of execution. Under the timing provided by S.C. Code § 24-3-530 (A), “[t]he election for death by electrocution or lethal injection must be made in writing fourteen days before the execution date or it is waived.”). Sigmon had until Friday, January 29, 2021, to make an election. The South Carolina Department of Correction has advised that Sigmon declined to elect which, by operation of statute, results in waiver and default to lethal injection. (Attachment 1, Letter of Feb. 1, 2021).

The Department of Corrections has also advised “that it will not be able to obtain the required drugs prior to February 12, 2021.” (Id).

Respondent maintains that Sigmon has not shown that a stay of execution under *In re Stays* is warranted to pursue additional proceedings challenging either his conviction or sentence. However, the failure to elect has resulted in a default to lethal injection which is not currently available. Given that the Department has advised it is still presently unable to conduct an execution by lethal injection, Respondent does not object to a stay akin to that issued in *State v. Richard Bernard Moore*, Appellate Case No. 2001-021895, Order of November 30, 2020 (granting a stay “until the South Carolina Department of Corrections advises the Court it has the ability to perform the execution as required by the law.”).

Respectfully Submitted,

ALAN WILSON
Attorney General of South Carolina

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

s/Melody J. Brown

By: _____

MELODY J. BROWN
S.C. Bar No. 14244

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR RESPONDENT

February 1, 2021