

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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MAY 24 2021

SC Court of Appeals

Appeal From The Administrative Law Court

Honorable Ralph K. Anderson, III, Administrative Law Judge

Appellate Case No. 2019-001554

STEWART BUCHANAN, # 69848APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF
PROBATION, PAROLE AND PARDON SERVICESRESPONDENT.

APPELLANT'S NOTICE OF SUPPLEMENTAL AUTHORITY

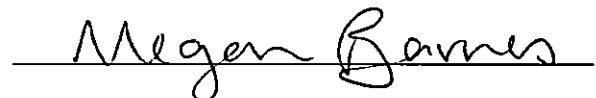
Pursuant to Rule 208(6)(7), SCACR, Respondent Stewart Buchanan files this notice of supplemental authority.

Last week, in *State v. Morgan*, No. 2018-001465, 2021 WL 1897965 (S.C. Ct. App. May 12, 2021), this Court held that a juvenile sentenced to life without parole (LWOP) prior to the decision in *Aiken v. Byars*, 410 S.C. 534 (2014) was entitled to a new sentencing proceeding. This Court expressly rejected the argument that a sentencer considering mitigating features related to youth at his original death penalty trial (pre-*Roper*) could satisfy *Aiken*. This Court reaffirmed the holding in *Aiken* that “any juvenile offender who receives a sentence of [LWOP] is entitled to the same constitutional protections afforded by the Eighth Amendment’s guarantee against cruel and unusual punishment,” and that South Carolina courts were “specifically required” to consider factors related to an offender’s youth when sentencing juveniles. *Id.* at *2. Thus, it was not enough

that a sentencer had “touched on the issues of youth” at Morgan’s original trial; it did not “approach[] the sort of hearing envisioned by *Miller* where the factors of youth were carefully and thoughtfully considered.” *Id.* at *3 (internal quotations omitted). Because these previous sentencing proceedings were held prior to 2014 when Aiken was decided, it was “not possible” for the court to have “fully consider[ed] the factors identified in *Miller* and *Aiken*.” *Id.* at *1.

Because Stewart was sentenced prior to *Aiken v. Byars*, the sentencing judge did not have the benefit of the factors it created for calibrating the appropriate punishment. It was therefore incumbent on the parole board to consider those factors, which it did not do in rejecting (repeatedly) Stewart’s request for parole based on the nature and circumstances of the offense.

Respectfully submitted,



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May 20, 2021

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Appellate Case No. 2019-001554

STEWART BUCHANAN, # 69848APPELLANT,

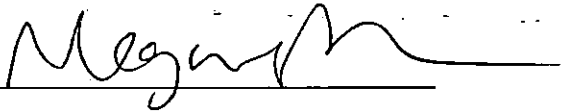
v.

SOUTH CAROLINA DEPARTMENT OF
PROBATION, PAROLE AND PARDON SERVICESRESPONDENT.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Notice of Supplemental Authority was served by mail, this 20th day of May, 2021, upon the following:

Matthew Buchanan
Department of Probation, Parole and Pardon Services
P.O. Box 50666
Columbia, SC 29250



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MAY 24 2021

SC Court of Appeals

May 20, 2021

The Honorable Jenny Abbot Kitchings
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RE: Stewart Buchanan, SCDC #69848 v. S.C. Department of Probation, Parole and Pardon Services

Dear Ms. Kitchings,

Please find enclosed for filing Appellant's Notice of Supplemental Authority and proof of service of such document on all parties to the case. Thank you, and if you any questions or require any further information, please do not hesitate to contact me.

Sincerely yours,



Megan E. Barnes
Counsel for Stewart Buchanan

cc: Matthew Buchanan, Esq.
John H. Blume, III, Esq.
Stewart Buchanan

JUSTICE 360

ADVANCING EQUALITY IN THE
CRIMINAL JUSTICE SYSTEM

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COLUMBIA, SC 290

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The Honorable Jenny Abbot Kitchings
South Carolina Court of Appeals
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