

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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Case No. 2001-021895  
Original Jurisdiction Case No. 2020-001519

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RICHARD BERNARD MOORE  
*Petitioner,*

v.

STATE OF SOUTH CAROLINA,  
*Respondent.*

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REPLY TO  
PETITIONER'S SECOND MOTION FOR STAY OF EXECUTION  
PENDING RESOLUTION OF PETITION FOR WRIT OF HABEAS CORPUS

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A stay of execution should remain in place until a decision is rendered on Petitioner Richard Moore's habeas claim. This request is simple. Merely, an adherence to this Court's settled practice of allowing the exhaustion of habeas review, once the case has been accepted in the Court's original jurisdictions, prior to granting relief, or in the event relief is denied, setting an execution date. *In re Stays of Execution in Cap. Cases*, 321 S.C. 544, 548, 471 S.E.2d 140, 142 (1996). Implicit in this tradition is the acknowledgment that this Court's authority is paramount and once the Court has agreed to consider the merits of the underlying constitutional claims, it will resolve the matter in due course. Any endorsement to proceed with an execution while a decision on a state habeas claim is pending is perplexing.

Beyond tradition, enforcing a stay aligns with the Court's tenets of fairness and justice. In suggesting this motion is premature, the State invites a game of procedural hopscotch founded in

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semantics and prioritizing form over substance. A game neither this Court nor Petitioner should be asked to play. *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329–30, 730 S.E.2d 282, 285 (2012) (noting this Court does not engage in gotcha games that harm litigants); *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 333, 730 S.E.2d 282, 287 (2012) (Toal, J. concurring) (acknowledging that “behind every party name on a caption is a life-blood litigant or criminal defendant that depends on the court system to protect their economic and liberty interests”); *Watts v. Oliphant*, 246 S.C. 402, 407, 143 S.E.2d 813, 815 (1965) (noting “rules should not be applied so as to bring about the ‘sacrifice of substance to form’”); *see also generally* Rule 1, SCRCP (explaining our rules are fashioned to “secure the just, speedy, and inexpensive determination of every action”). The reality is this motion is ripe for review because (1) this Court’s prior order stayed execution until SCDC could proceed, (2) SCDC has notified the Court it is able to proceed, and (3) the Court’s denial of Petitioner’s first motion to stay pending the resolution of the petition for writ of habeas corpus on the grounds of mootness. SCDC’s notice to this Court negates the Court’s prior finding of mootness as evidenced by the issuance of other execution notices by this Court (in the cases of Brad Sigmon and Freddie Owens).

At its core, the State urges this Court to find administrative acts usurp the Court’s authority to review and render a decision in a habeas case and to engage in repetitive motions practice instead of squarely addressing a ripe issue. To do so would denigrate the rule of law and the guiding principles of this Court.

*Signature Page to Follow*

Respectfully submitted,

s/Whitney B. Harrison

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June 7, 2021.