

RECEIVED

Jun 11 2021

S.C. SUPREME COURT

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

The State,

Respondent,

v.

Freddie Eugene Owens,

Appellant.

Appellate Case No. 2006-038802

Greenville County
(Trial Court Case No. 1998GS2305220)

**AMENDED AFFIDAVIT OF BRYAN P. STIRLING
DIRECTOR OF THE SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS**

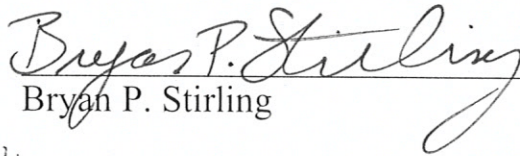
PERSONALLY APPEARED BEFORE ME, BRYAN P. STIRLING, who
being duly sworn, deposes and states as follows:

1. I am over the age of eighteen and competent to give this testimony.
2. I serve as the Director of the South Carolina Department of Corrections (hereinafter "Department"), having first been appointed as interim to this position in October of 2013 and later confirmed by the South Carolina Senate as Director thereafter.
3. Pursuant to S.C. Code Ann. Section 24-3-530(B), I am charged with certifying, under penalty of perjury, the available methods of execution upon receiving a notice of execution issued by the South Carolina Supreme Court.
4. According to S.C. Code Ann. Section 25-3-530, there are three, statutorily approved methods of execution. Specifically, the General

Assembly has approved electrocution, lethal injection, and firing squad as methods for carrying out a lawful sentence of death.

5. On Tuesday, June 1, 2021, my office received a copy of an Execution Notice issued by the Clerk for the South Carolina Supreme Court regarding Freddie Eugene Owens.
6. I hereby certify that, as of this date, the only statutorily approved method of execution available to the South Carolina Department of Corrections is electrocution, (see attached response).

FURTHER AFFIANT SAYETH NOT.


Bryan P. Stirling

SWORN TO BEFORE ME THIS 11th

DAY OF June, 2021

M. Daine Dault (SEAL)

NOTARY PUBLIC FOR S.C.

COMMISSION EXPIRES: 3/12/2024

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

NOTICE OF ELECTION

RECEIVED

Jun 11 2021

S.C. SUPREME COURT

In Re Freddie Eugene Owens, #5065

Notice pursuant to S.C. Code Ann. Section 24-3-530(E)

Pursuant to S.C. Code Ann. Section 24-3-530(E), the South Carolina Department of Corrections is hereby providing you written notice of your right to election of method of execution, as well as the available methods of execution. The June 11, 2021 Affidavit of Director Bryan P. Stirling is attached. As stated in that Affidavit, the only statutorily approved method of execution currently available to the South Carolina Department of Corrections is electrocution. *I elect lethal Injection*

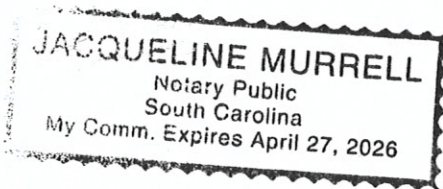
S/ *Freddie Eugene Owens*
Freddie Eugene Owens
Acknowledgement of Receipt

Dated: June 11, 2021

WITNESSES:

[Signature]

Jacqueline Murrell



THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

The State,

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**AFFIDAVIT OF BRYAN P. STIRLING
DIRECTOR OF THE SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS**

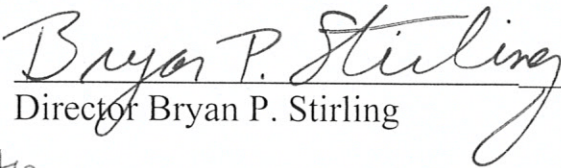
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4. According to S.C. Code Ann. Section 25-3-530, there are three, statutorily approved methods of execution. Specifically, the General

Assembly has approved electrocution, lethal injection, and firing squad as methods for carrying out a lawful sentence of death.

5. On Tuesday, June 1, 2021, my office received a copy of an Execution Notice issued by the Clerk for the South Carolina Supreme Court regarding Brad Keith Sigmon.
6. I hereby certify that, as of this date, the only statutorily approved method of execution available to the South Carolina Department of Corrections is electrocution, (see attached response).

FURTHER AFFIANT SAYETH NOT.



Director Bryan P. Stirling

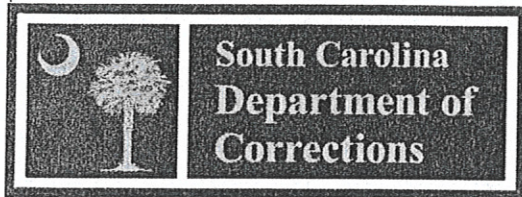
SWORN TO BEFORE ME THIS 17th

DAY OF June, 2021

N. Danni Hall (SEAL)

NOTARY PUBLIC FOR S.C.

COMMISSION EXPIRES: 3/12/2024



HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

June 8, 2021

RECEIVED

Jun 11 2021

S.C. SUPREME COURT

The Honorable Daniel E. Shearouse
Clerk of Court for South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

RE: The State v, Brad Keith Sigmon
Appellate Case No. 2002-024388

Dear Mr. Shearouse:

This letter is in response to your June 4, 2021 letter asking for an explanation as to why two of the statutorily approved methods of execution, lethal injection and firing squad, are not available in the execution of Brad Keith Sigmon.

As to lethal injection, the South Carolina Department of Corrections (SCDC) has been unable, despite numerous and diligent attempts, to acquire the drugs necessary, in useable form, to perform a lethal injection. SCDC, like many other departments of corrections across the nation,¹ has been repeatedly told, in no uncertain terms, by manufacturers of the drugs needed for a lethal injection that they will not sell SCDC such drugs. Attached is a copy of the most-recent correspondence from a major manufacturer of the drugs needed for lethal injection as an example of the numerous correspondence SCDC has received. *See Exhibit A.* SCDC has received similar letters from manufacturers of the necessary drugs over the years.

Since all of SCDC's efforts to obtain the necessary drugs from a manufacturer of such drugs have failed, SCDC has also explored having a licensed pharmacy and pharmacist compound the drugs. Those efforts have also been unsuccessful.

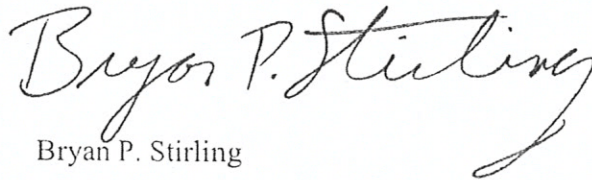
As for firing squad, SCDC does not currently have the necessary policies and protocols, as required by the statute, for an execution by firing squad. SCDC began working on acquiring the necessary information needed for the development of policies and protocols for a firing squad as soon as the Bills that were making their way through the General Assembly were amended to add firing squad as a statutorily approved method of execution. SCDC's process of developing the policies and protocols for a firing squad entails working with other States that already have firing squad available as a method of

¹ *See Glossip v. Gross*, 576 U.S. 863, 135 S.Ct. 2726, 196 L.Ed.2d 761 (2015)

The Honorable Daniel Shearouse
Clerk to the Supreme Court of South Carolina
June 8, 2021
Page 2

execution, and SCDC is currently working on establishing policies and protocols for an execution by firing squad and expects to have those policies and protocols finalized in the next few weeks. After those policies and procedures are finalized, the process will then turn to implementation, and the time frame for implementation will be dependent on the finalized policies and procedures.

Very truly yours,



Bryan P. Stirling

cc: Alan McCrory Wilson, Esquire
Donald J. Zelenka, Esquire
Melody Jane Brown, Esquire
Megan Elizabeth Barnes, Esquire
Joshua Snow Kendrick, Esquire
Barton Jon Vincent, Esquire
Daniel Clifton Plyler, Esquire

No. R56
CLERK OF THE SENATE

No. _____
CODE COMMISSIONER

AN ACT

TO AMEND SECTION 24-3-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEATH BY ELECTROCUTION OR LETHAL INJECTION, SO AS TO PROVIDE THAT A PERSON SENTENCED TO DEATH SHALL SUFFER THE PENALTY BY ELECTROCUTION OR BY FIRING SQUAD OR LETHAL INJECTION, IF LETHAL INJECTION IS AVAILABLE AT THE TIME OF ELECTION, TO PROVIDE THAT AN ELECTION EXPIRES AND MUST BE RENEWED IN WRITING IF THE CONVICTED PERSON RECEIVES A STAY OF EXECUTION OR THE EXECUTION DATE HAS PASSED, TO PROVIDE THAT A PENALTY MUST BE ADMINISTERED BY ELECTROCUTION FOR A PERSON WHO WAIVES HIS RIGHT OF ELECTION, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL DETERMINE AND CERTIFY TO THE SUPREME COURT WHETHER THE METHOD SELECTED IS AVAILABLE, AND TO PROVIDE THAT THE MANNER OF INFLECTING A DEATH SENTENCE MUST BE ELECTROCUTION, UNLESS THE PERSON ELECTS DEATH BY FIRING SQUAD, IF EXECUTION BY LETHAL INJECTION IS UNAVAILABLE OR IS HELD TO BE UNCONSTITUTIONAL BY AN APPELLATE COURT OF COMPETENT JURISDICTION.

I Certify that the Within Originated in the Senate.


Correctly Enrolled _____

[Signature]
Clerk of the Senate

Ashley Harwell-Beach

Ashley Harwell-Beach, Director
Legislative Council

MAY 13 2021

FILED 

Delivered to the Governor this _____

Delivered to the Secretary of State this _____

MAY 14 2021

day of _____, A.D. 20 _____

day of _____, A.D. 20 _____

[Signature]
Clerk of the Senate

Mark Hammond
SECRETARY OF STATE

THE STATE OF SOUTH CAROLINA

At A General Assembly Begun to be Holden at
Columbia, on the Second Tuesday in January, in the
Year of Our Lord Two Thousand Twenty One, and
Thence Continued by Divers Adjournments to the
_____ of _____

In the Year of Our Lord Two Thousand Twenty One

AN ACT

TO AMEND SECTION 24-3-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEATH BY ELECTROCUTION OR LETHAL INJECTION, SO AS TO PROVIDE THAT A PERSON SENTENCED TO DEATH SHALL SUFFER THE PENALTY BY ELECTROCUTION OR BY FIRING SQUAD OR LETHAL INJECTION, IF LETHAL INJECTION IS AVAILABLE AT THE TIME OF ELECTION, TO PROVIDE THAT AN ELECTION EXPIRES AND MUST BE RENEWED IN WRITING IF THE CONVICTED PERSON RECEIVES A STAY OF EXECUTION OR THE EXECUTION DATE HAS PASSED, TO PROVIDE THAT A PENALTY MUST BE ADMINISTERED BY ELECTROCUTION FOR A PERSON WHO WAIVES HIS RIGHT OF ELECTION, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL DETERMINE AND CERTIFY TO THE SUPREME COURT WHETHER THE METHOD SELECTED IS AVAILABLE, AND TO PROVIDE THAT THE MANNER OF INFLECTING A DEATH SENTENCE MUST BE ELECTROCUTION, UNLESS THE PERSON ELECTS DEATH BY FIRING SQUAD, IF EXECUTION BY LETHAL INJECTION IS UNAVAILABLE OR IS HELD TO BE UNCONSTITUTIONAL BY AN APPELLATE COURT OF COMPETENT JURISDICTION.

Be it enacted by the General Assembly of the State of South Carolina:
\\ACTS\200AHB21.DOCX

Engrossed by
SC Legislative Council
MAY 12 2021



Death penalty, methods of execution

SECTION 1. Section 24-3-530 of the 1976 Code is amended to read:

“Section 24-3-530. (A) A person convicted of a capital crime and having imposed upon him the sentence of death shall suffer the penalty by electrocution or, at the election of the convicted person, by firing squad or lethal injection, if it is available at the time of election, under the direction of the Director of the Department of Corrections. The election for death by electrocution, firing squad, or lethal injection must be made in writing fourteen days before each execution date or it is waived. If the convicted person receives a stay of execution or the execution date has passed for any reason, then the election expires and must be renewed in writing fourteen days before a new execution date. If the convicted person waives the right of election, then the penalty must be administered by electrocution.

(B) Upon receipt of the notice of execution, the Director of the Department of Corrections shall determine and certify by affidavit under penalty of perjury to the Supreme Court whether the methods provided in subsection (A) are available.

(C) A person convicted of a capital crime and sentenced to death by electrocution prior to the effective date of this section must be administered death by electrocution unless the person elects death by firing squad or lethal injection, if it is available, in writing fourteen days before the execution date.

(D) If execution by lethal injection under this section is determined and certified pursuant to subsection (B) to be unavailable by the Director of the Department of Corrections or is held to be unconstitutional by an appellate court of competent jurisdiction, then the manner of inflicting a death sentence must be by electrocution, unless the convicted person elects death by firing squad.

(E) The Department of Corrections must provide written notice to a convicted person of his right to election under this section and the available methods.

(F) The Department of Corrections shall establish protocols and procedures for carrying out executions pursuant to this section.”

Severability clause

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the

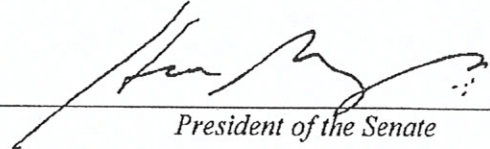
constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

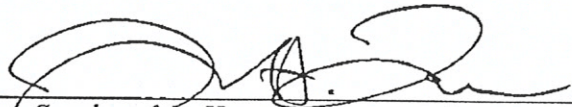
SECTION 3. This act takes effect upon approval by the Governor and applies to persons sentenced to death as provided by law prior to and after the effective date of this act.

---XX---

In the Senate House MAY 13 2021

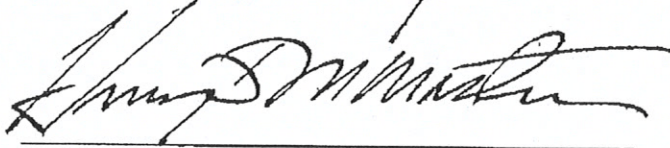


President of the Senate



Speaker of the House of Representatives

Approved the 14th day of May 2021.



Governor

LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY OF SOUTH CAROLINA

Ashley Harwell-Beach, Director

Ashley Harwell-Beach

Attorney: Harwell-Beach

Drafting Assistant: Huth

S. 200

Legislative Council No. (86) 200AHB21

Doc. No.: L:\COUNCIL\ACTS\200AHB21.DOCX

Statewide: Local: Temporary:

Proofread by *Whitell / Jasmine*

Engrossed by
SC Legislative Council

MAY 12 2021

