

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Jun 11 2021

S.C. SUPREME COURT

Appeal from Richland County
Honorable Judge Jocelyn Newman

No. 2021-000606

FREDDIE EUGENE OWENS and BRAD KEITH SIGMON,..... *Appellants,*

v.

BRYAN P. STIRLING, SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS, and HENRY McMASTER,..... *Respondents.*

**NOTICE OF REASONED DECISION AND
MOTION FOR EXPEDITED CONSIDERATION**

Brad Sigmon and Freddie Owens are scheduled to be executed on **June 18, 2021** and **June 25, 2021**, respectively. Both have motions pending before this Court for stays of execution based, *inter alia*, on this litigation, which was pending in the lower court and is now before this Court. This action raises four issues concerning the constitutionality of S.C. Code Section 24-3-530 (2021), which was amended only four weeks ago.¹ Appellants submit the following to update the

¹ Specifically, Appellants alleged the newly amended statute is unconstitutional (facially and as applied) because it violates: (1) the state and federal Due Process Clauses by eliminating Appellants’ vested right to select between lethal injection and electrocution as a method of execution; (2) the state and federal prohibitions on ex post facto punishment by increasing their punishment (i.e., forcing electrocution instead of lethal injection); (3) the state and federal Due Process Clauses because the statute is void for vagueness based on the failure to define “unavailable” and other grammatical contradictions; and, (4) the non-delegation doctrine implicit in Article I, section 8 of the South Carolina Constitution by giving the Director of the South Carolina Department of Corrections (“SCDC”) unfettered discretion to select a method of execution by declaring the others “unavailable.”

Court on the status of the proceedings below and to request expedited consideration in light of their pending execution dates.

On June 8, 2021, Richland County Circuit Court Judge Jocelyn Newman issued a Form 4 order denying Appellants' motion for a preliminary injunction. In that order, Judge Newman indicated: "A formal, more detailed written Order is forthcoming." Appellants filed a notice of appeal on June 10, 2021. This morning, on June 11, 2021, Judge Newman issued her formal, detailed order, attached to this filing as Exhibit 1.

Mr. Owens and Mr. Sigmon filed this lawsuit on May 17, 2021, the first business day after the Governor signed the statute into law. This Court set execution dates for Mr. Sigmon and Mr. Owens on May 27 and June 1, respectively. Then, on June 3, SCDC Director Stirling filed an affidavit with this Court certifying that electrocution is the only method of execution available. The next day, this Court instructed Director Stirling "to provide an explanation as to why two methods of execution under the statute, lethal injection and firing squad, are currently unavailable." Director Stirling submitted a letter with his explanation on June 8.² As of this filing, this Court has not addressed whether Director Stirling's explanation is sufficient under the constitution or the amended statute, and this Court has before it the question of the amended statute's constitutionality. Appellants, therefore, request expedited consideration of this appeal. Because Appellants' executions are one and two weeks away, they further submit that a stay of their executions is appropriate while this Court considers the important questions raised since the statute's amendment, less than one month ago.

[Signature block appears on the following page]

² The communications between Director Stirling and this Court are attached as Exhibit 2.

s/ Lindsey S. Vann

Lindsey S. Vann

Emily C. Paavola

Hannah L. Freedman

Megan E. Barnes

Brendan Van Winkle

JUSTICE 360

900 Elmwood Ave., Suite 200

Columbia, SC 29201

(803) 765-1044

J. Christopher Mills

J. CHRISTOPHER MILLS, LLC

2118 Lincoln Street

Columbia, SC 29202

(803) 748-9533

June 11, 2021