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**May 02 2022**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM OCONEE COUNTY  
Court of General Sessions  
The Honorable R. Lawton McIntosh, Circuit Court Judge

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Appellate Case No. 2020-001554

THE STATE,

RESPONDENT,

v.

CALVIN CARROLL COCHRAN,

APPELLANT.

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MOTION TO DISMISS APPEAL AS MOOT

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Respondent moves to dismiss this appeal upon the death of Appellant. In support of its motion, Respondent would respectfully show unto this Court:

I.

On January 10, 2022, Respondent requested this Court hold the time for filing the Final Brief of Respondent in abeyance pending the verification of the death of Appellant. On January 24, 2022, this Court granted the motion to hold in abeyance for a period of ninety (90) days.

II.

Today, May 2, 2022, Respondent received a copy of the coroner's case summary report (Exhibit A) from the Office of Appellate Defense that confirms Appellant passed away on December 26, 2021.

### III.

Respondent moves before this Court for dismissal of the pending appeal. The maintenance of any legal action requires the existence of a justiciable controversy, which “encompasses the doctrines of ripeness, mootness, and standing.” Sloan v. Greenville Cty., 356 S.C. 531, 546-47, 590 S.E.2d 338, 347 (Ct. App. 2003). “[M]oot appeals result when intervening events render a case nonjusticiable.” Id. at 552, 590 S.E.2d at 349. “A case becomes moot when a judgment, if rendered, would have no practical legal effect upon the existing controversy, thus making it impossible for the reviewing court to grant effectual relief.” State v. Passmore, 363 S.C. 568, 581, 611 S.E.2d 273, 280 (Ct. App. 2005). “An appellate court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.” Curtis v. State, 345 S.C. 557, 567–68, 549 S.E.2d 591, 596 (2001). “The function of appellate courts is not to give opinions on merely abstract or theoretical matters, but only to decide actual controversies injuriously affecting the rights of some party to the litigation.” Sloan, supra at 552, 590 S.E.2d at 349. “Accordingly, cases or issues which have become moot or academic in nature are not a proper subject of review.” Id.

Appellant’s death renders the appeal moot. United States v. Volpendesto, 755 F.3d 448, 452 (7th Cir. 2014) (“We and our sister circuits have recognized that death of a criminal defendant before appeal causes the case to become moot.”). In an appeal flowing from a criminal conviction, only the convicted defendant may receive relief from the appeal’s outcome. With the passing of the defendant, the actual controversy before this Court has ceased. Accordingly, dismissal is the appropriate remedy.

### IV.

WHEREFORE, Respondent submits the motion to dismiss the appeal as moot should be

granted for the foregoing reasons, requests this Court continue to hold the time for filing the Final Brief of Respondent in abeyance pending a ruling on the motion to dismiss, and grant such further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

WILLIAM M. BLITCH, JR.  
Senior Assistant Deputy Attorney General

DAVID R. WAGNER  
Solicitor, Tenth Judicial Circuit

BY:



WILLIAM M. BLITCH, JR.  
S.C. Bar No. 15608  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR RESPONDENT

May 2, 2022

# Exhibit A



**Office of the Coroner**  
**Oconee County, SC**  
**Karl E. Addis, Coroner**

302 Memorial Drive  
Seneca, SC 29672

Office: 864-885-0687  
Fax: 864-885-0689

Case# 2021CR-402

Case Summary Report

Report Date: 1/12/2022

Calvin Carroll Cochran, age 71 Years, who was currently residing at 300 South Church Street, (Oconee Detention Center), Walthala, SC died on Sunday, December 26, 2021 at 06:49 am at the Oconee Memorial Hospital.

The Coroner's office was notified of the death at 08:52 am by Donna Rogers RN.

Coroner Karl Addis responded to this emergency department death arriving at 07:27 am.

The deceased had been an inmate at Oconee Detention Center since October 2021.

Mr. Cochran was found unresponsive in his cell at approximately 05:30 am by detention officers; CPR was initiated, EMS was dispatched to the detention center at 05:32 am. This office would learn EMS defibrilated him multiple times for ventricular fibrillation. Basic and advanced life support was provided with transport. Upon arrival at the emergency department at 08:22 am, he was found to be in ventricular fibrillation with no pulse. Resuscitation was continued with no return of spontaneous circulation. Mr. Cochran was pronounced dead by Dr. Kathy Johnson.

An exam found no injuries. He had 3+ pitting edema of his lower extremities; his scrotum was swollen. Photos are obtained. Specimens are collected for DNA card and toxicology.

His body was transported to the coroner office for sheltering and autopsy.

Coroner Addis would locate a niece, Kelly Cochran; she was notified of his death at 08:58 am.

The autopsy was conducted on Monday, December 27, 2021 at Oconee Coroner Office morgue by Dr. Bjell Woodard and Mr. Charlie Roseman.

This exam determined the decedent died due to congestive heart failure due to dilated hypertrophic cardiac disease. A COVID test was performed with a positive result.

At the request of the family, his body was released to Sandifer Funeral Home.

This report is issued in the absence of toxicology analysis.

The cause of death is congestive heart failure due to dilated hypertrophic cardiac disease. COVID-19 is another significant condition.

The manner of death for Calvin Carroll Cochran is classified Natural.

Funeral Home:	
Phone:	
Work:	
Coroner/ Deputy Information	
Submitted by: Karl E. Addis	Phone: 864-885-0687

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APPELLANT.

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PROOF OF SERVICE

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I, Caroline Collins, certify that I have served the within Motion to Dismiss Appeal as Moot on Appellant by email to Appellant's counsel of record, Taylor D. Gilliam, at his primary email address listed in the Attorney Information System (AIS).

I further certify that all parties required by Rule to be served have been served this 2nd day of May, 2022.



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CAROLINE COLLINS

Administrative Coordinator  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3727

## Caroline Collins

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**From:** Caroline Collins  
**Sent:** Monday, May 2, 2022 3:12 PM  
**To:** Gilliam, Taylor  
**Cc:** Warren, Kaylynn; William Blich  
**Subject:** The State v. Calvin Carroll Cochran (2020-001554)  
**Attachments:** COCHRAN Calvin - Motion to Dismiss Appeal as Moot - 2020-001554 (02970444xD2C78).PDF

Good Afternoon Mr. Gilliam,

Attached please find a Motion to Dismiss Appeal as Moot in The State v. Calvin Carroll Cochran (2020-001554). This motion will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System.

If you will, please reply to confirm receipt of this email.

Thank you!

**CAROLINE COLLINS**, Administrative Coordinator  
South Carolina Attorney General's Office  
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