

The Supreme Court of South Carolina

The State, Respondent,

v.

Brad Keith Sigmon, Appellant.

Appellate Case No. 2002-024388

and

Brad Keith Sigmon, Petitioner,

v.

The State of South Carolina, Respondent.

Appellate Case No. 2021-000584

ORDER

Petitioner was sentenced to death following his convictions for two counts of murder and first-degree burglary. This Court affirmed Petitioner's convictions and sentences on direct appeal, and the United States Supreme Court denied Petitioner's request for a writ of certiorari. *State v. Sigmon*, 366 S.C. 552, 623 S.E.2d 648 (2005), *cert. denied*, 548 U.S. 909 (2006). Following the denial of state post-conviction relief and federal habeas corpus relief, the United States Supreme Court denied Petitioner's request for a writ of certiorari. *Sigmon v. Sterling*, No. 8:13-cv-01399-RBH, 2018 WL 4691197 (D.S.C. Sep. 30, 2018), *aff'd*, 956 F.3d 183 (4th Cir. 2020), *cert. denied*, 141 S. Ct. 1094 (2021). Petitioner's execution has been scheduled for June 18, 2021.

Petitioner now seeks a stay of execution pending review of his request for a writ of habeas corpus in this Court's original jurisdiction. In addition, Petitioner seeks a

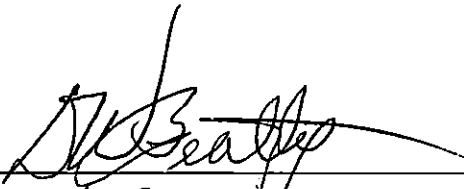
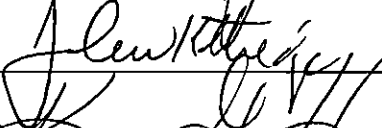
stay of execution until such time as his allegation that permitting his execution to proceed with only one authorized method of execution violates S.C. Code Ann. § 24-3-530 (2021) is determined.

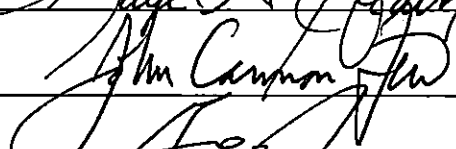
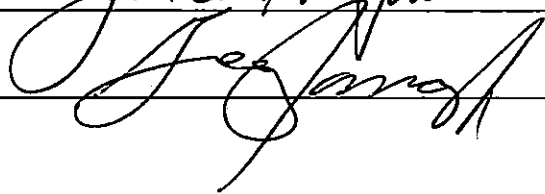
Because Petitioner has failed to show a constitutional violation constituting a denial of fundamental fairness shocking to the universal sense of justice, we deny his request for a writ of habeas corpus in our original jurisdiction. *See* Rule 245(a), SCACR (providing the Court will not entertain matters in its original jurisdiction when the matter can be determined in a lower court in the first instance, without material prejudice to the rights of the parties, unless the public interest is involved, or special grounds of emergency or other good reasons exist why the original jurisdiction of the Court should be exercised); *Butler v. State*, 302 S.C. 466, 468, 397 S.E.2d 87, 88 (1990) (holding that to receive habeas corpus relief in this Court's original jurisdiction, a petitioner must show a constitutional "violation, which, *in the setting*, constitutes a denial of fundamental fairness shocking to the universal sense of justice" (quoting *State v. Miller*, 84 A.2d 459, 463 (N.J. Super. Ct. App. Div. 1951))). As a result, the motion for a stay of execution pending review of Petitioner's request for a writ of habeas corpus is denied.

As to Petitioner's request to stay his execution pending a determination of whether section 24-3-530 has been violated, the Director of the South Carolina Department of Corrections has provided an affidavit certifying that, as of June 3, 2021, the only statutorily approved method of execution available in South Carolina is electrocution. Further, in response to an inquiry from the Clerk of the Court, the Director has provided an explanation as to why two methods of execution under section 24-3-530, lethal injection and firing squad, are currently unavailable.

According to the Director's response, lethal injection is unavailable due to circumstances outside of the control of the Department of Corrections, and firing squad is currently unavailable due to the Department of Corrections having yet to complete its development and implementation of necessary protocols and policies.

Under these circumstances, in which electrocution is the only method of execution available, and due to the statutory right of inmates to elect the manner of their execution, we vacate the execution notice. *See* S.C. Code Ann. § 24-3-530 (2021). We further direct the Clerk of this Court not to issue another execution notice until the State notifies the Court that the Department of Corrections, in addition to maintaining the availability of electrocution, has developed and implemented appropriate protocols and policies to carry out executions by firing squad.


C.J.

J.

J.

J.

J.

Columbia, South Carolina
June 16, 2021

cc:

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