

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

BOBBY WAYNE STONE,)
)
Petitioner,)
)
vs.)
)
BRYAN P. STIRLING, Commissioner,)
South Carolina Department of Corrections,)
and JOSEPH MCFADDEN, Warden,)
Lieber Correctional Institution,)
)
Respondents.)

CASE NO. 2:17-CV- 01221-MGL-MGB
CAPITAL CASE

MOTION FOR STAY OF EXECUTION

Petitioner, Bobby Wayne Stone, is an indigent prisoner under sentence of death imposed by the Sumter County, South Carolina Court of General Sessions. On April 10, 2017, this Court granted petitioner a stay of execution pursuant to 28 U.S.C. § 2251(a)(3), and ordered that the stay of execution would terminate ninety days after the appointment of counsel. (Dkt. No. 9). On May 4, 2017, this Court appointed John Blume and Emily Paavola as petitioner’s habeas counsel. In addition, the Court appointed John Warren as independent counsel to conduct an investigation into whether petitioner has any potential claims he wishes to raise under *Martinez v. Ryan*, 566 U.S. 1 (2012), in his federal habeas corpus petition. (Dkt. No. 13).

Although petitioner’s initial federal stay of execution has expired, under the Antiterrorism and Effective Death Penalty Act of 1996, 110 Stat. 1214, petitioner has until March 29, 2018 to file his petition for writ of habeas corpus. On November 3, 2017, counsel for respondent asked the South Carolina Supreme Court to set an execution date in Petitioner’s case. The state court did so and scheduled petitioner’s execution for December 1, 2017. Petitioner sought a stay of execution from the South Carolina Supreme Court, but that motion was denied on November 16, 2017. Petitioner therefore requests that this Court accept his “placeholder

petition,” filed on this date, in order to effectuate a further stay under 28 U.S.C. § 2251(a)(1) (“A justice or judge of the United States before whom a habeas corpus proceeding is pending, may, before final judgment or after final judgment of discharge, or pending appeal, stay any proceeding against the person detained in any State court or by or under the authority of any State for any matter involved in the habeas corpus proceeding.”). Under this procedure, agreed to by counsel for respondent at a telephonic hearing conducted on November 13, 2017, petitioner has filed a placeholder habeas petition and requests permission to amend the petition – including adding, amending, or removing claims – prior to the expiration of the statute of limitations. Additionally, petitioner asks this Court to order the State not to file a response until his final petition is filed.

Respectfully submitted,

s/Emily C. Paavola

Emily C. Paavola, Fed ID #11488
900 Elmwood Ave., Suite 200
Columbia, South Carolina 29201
(803) 765-1044
Emily@justice360sc.org

John H. Blume, Fed ID #1630
Cornell Law School
159 Charles Evans Hughes Hall
Ithaca, New York 14853
(607) 255-1030
John@blumelaw.com

John L. Warren III, Fed ID #12164
Simmons Law Firm, LLC
1711 Pickens Street
Columbia, South Carolina 29201
(803) 779-4600
Jwarren@simmonsfirm.com