

No. 24A-409  
(CONNECTED CASE 24-5668)

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

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RICHARD BERNARD MOORE,

*Petitioner,*

VS.

BRYAN P. STIRLING, Commissioner, South Carolina Department of Corrections,

*Respondent.*

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**CAPITAL CASE**

**EXECUTION OF PETITIONER MOORE SCHEDULED FOR NOVEMBER 1, 2024**

**DIRECTED TO THE HONORABLE JOHN G. ROBERTS, CHIEF JUSTICE OF THE SUPREME COURT  
OF THE UNITED STATES, AND CIRCUIT JUSTICE FOR THE FOURTH CIRCUIT**

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**REPLY IN SUPPORT OF EMERGENCY APPLICATION FOR STAY OF EXECUTION**

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Respondent's response to Moore's application for stay of execution does little more than raise the same arguments raised in his Brief in Opposition. While Moore responds to these arguments more thoroughly in his reply to the brief in opposition, filed with this Court on October 28, 2024, he respectfully draws attention to a few brief points.

Respondent claims the Supreme Court of South Carolina denied Moore's petition for a writ of habeas corpus based solely on a state law ground that contained no consideration of the federal claims Moore set forth therein. As discussed more thoroughly in Moore's pending reply, there is no way to discern whether the petition was denied on a specific ground and this Court's habeas jurisprudence, pursuant to *Harrington v. Richter*, 562 U.S. 86 (2011), and *Johnson v. Williams*, 568 U.S. 289 (2013), requires this summary denial to be treated as an adjudication on the merits of Moore's claim for relief. *See* Reply to Br. in Opp'n at 1–5. Additionally, Respondent wrongly represents that the standard set forth in *Butler v. State*, 397 S.E.2d 87 (S.C. 1990), is purely a matter of state law. Although this standard is articulated in a state court case, it necessarily incorporates consideration of federal constitutional claims into its adjudication of whether there “has been a violation, which, *in the setting*, constitutes a denial of fundamental fairness shocking to the universal sense of justice.” *Id.* at 88; *Moore v. Stirling*, 871 S.E.2 207, 218–19 (S.C. 2022); Reply to Br. in Opp'n at 4.

Respondent misrepresents the procedural history of how Moore attempted to have his *Batson* claims addressed for fifteen years over the course of his regular post-conviction proceedings. *See* Reply to Br. in Opp'n at 6–9. Throughout his state post-conviction proceedings, Moore consistently advocated to have the claims fully submitted for consideration, first to his appellate attorneys and then through *pro se* filings to the Supreme Court of South Carolina. These requests were denied. Accordingly, the claims were procedurally defaulted, and therefore unable

to be reviewed during his federal habeas proceedings in line with this Court's jurisprudence. This unique procedural backdrop was just one of the circumstances presented to the Supreme Court of South Carolina as to why Moore's *Batson* claims warranted review.

Moore's pending petition for a writ of certiorari thoroughly addresses why the Supreme Court of South Carolina legally erred in applying this Court's *Batson* jurisprudence, specifically regarding the law as articulated most recently in *Flowers v. Mississippi*, 588 U.S. 284, 302, 316–17 (2019). The facts and circumstances taken together clearly establish that *Batson* was violated during jury selection at his capital trial. A stay of execution should be issued in these circumstances to allow for consideration and disposition of the important constitutional considerations set forth in his pending petition for a writ of certiorari.

Respectfully submitted,

/s/Lindsey S. Vann

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