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SUPREME COURT OF ARIZONA

KRISTIN K. MAYES, ARIZONA ATTORNEY GENERAL, Petitioner, v. RACHEL H. MITCHELL, MARICOPA COUNTY ATTORNEY, Respondent, AARON BRIAN GUNCHES, Real Party in Interest.	Arizona Supreme Court No. CV-24-0127-SA **ATTORNEY GENERAL'S SUPPLEMENTAL BRIEF REGARDING HER EXCLUSIVE AUTHORITY TO REQUEST A WARRANT OF EXECUTION**

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INTRODUCTION

On June 24, 2024, the Court ordered the parties to submit supplemental briefing on the issues raised in the State's motion to strike—namely, whether the Attorney General maintains exclusive authority to request a warrant of execution from this Court under A.R.S. § 13-759(A) and Ariz. R. Crim. P. 31.23. For the reasons detailed in the State's motion to strike and below, the Attorney General unquestionably maintains the exclusive authority to request a warrant of execution from this Court.[1]

The Attorney General has a mandatory, statutory obligation to represent the State in this Court and in federal court, and to represent the Arizona Department of Corrections, Rehabilitation and Reentry ("ADCRR") in every court. Conversely, the Maricopa County Attorney has no statutory authorization to represent the State outside of Maricopa County courts. The plain language of these statutory directives alone is sufficient to resolve this

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[1] The State's Motion to Strike Nonparty Maricopa County Attorney's Motion to Set Briefing Schedule for Motion for Warrant of Execution is currently before this Court as a separate standalone petition for special action relief. (*See* Order dated June 24, 2024). Nevertheless, the Attorney General incorporates the motion to strike by reference as though fully set forth herein.

case. Nevertheless, the history of A.R.S. § 13-759(A) and Ariz. R. Crim. P. 31.23, along with the Attorney General's mandates to protect the interests of her client (ADCRR) and to manage the duties of her office (which include capital post-conviction litigation), further demonstrate that the authority to request a warrant of execution rests exclusively with the Attorney General.

ARGUMENT

I. The Attorney General maintains an exclusive statutory grant of authority to represent the State in this Court.

The Attorney General's authority is a creature of statute, not common law. *State ex rel. Brnovich v. Ariz. Bd. of Regents*, 250 Ariz. 127, 130, ¶ 8 (2020). As a result, the Legislature has specifically designated the Attorney General the "chief legal officer of the state" and given her sole responsibility to "[p]rosecute and defend in the supreme court all proceedings in which this state or an officer of this state [ ] is a party." A.R.S. §§ 41-192(A); 41-193(A)(1). Based on a straightforward application of these legislative directives, this Court has concluded that as the "chief legal officer of the State," "the Attorney General is the proper state official" to represent "the State" in this Court. *State ex rel. Morrison v. Thomas*, 80 Ariz. 327, 332 (1956).

This Court later confirmed that these statutes "clearly created duties of legal representation" which were "specific and granular," including "prosecuting and defending all proceedings in this Court in which the state [ ] is a party." *State ex rel. Brnovich*, 250 Ariz. at 132, ¶ 19. The Attorney General is thus the State's representative in this Court, and as such, the Attorney General is the only state official authorized to request a warrant of execution from this Court under A.R.S. § 13-759(A) and Rule 31.23.

A deeper look at the Attorney General's other statutory duties further confirms this conclusion. For example, another specific and mandatory duty of the Attorney General's is to "exercise supervisory powers over county attorneys." A.R.S. § 41-193(A)(4); *see also Crosby-Garbotz v. Fell in & for Cnty. of Pima*, 246 Ariz. 54, 60 ¶ 24 (2019) (noting that Attorney General has supervisory authority over county attorneys and handles appeals from criminal cases tried by county attorneys, "who must furnish" the Attorney General with "a statement of facts and legal authority for appellate purposes").

The Attorney General's supervisory authority is "plenary" and the Attorney General has been "invested with full authority to . . . protect the interests of the state." *Westover v. State*, 66 Ariz. 145, 151-52 (1947) (adopting

interpretation of similar Kansas statute); *see also, e.g.*, A.R.S. § 15-253 (with respect to opinions in school matters, "[e]ach county attorney shall promptly transmit a copy" of their opinion "to the attorney general" and "[t]he opinion of the attorney general shall prevail"); *Smith v. Superior Ct. In & For Cochise Cnty.*, 101 Ariz. 559, 560 (1967) (finding that attorney general could assume county attorney's exclusive responsibility to prosecute criminal offenses in superior court when directed to do so by the governor). Allowing the County Attorney to represent the State in this Court over the objection of the Attorney General—particularly on an issue of statewide importance and direct relevance to many counties—would deeply undermine the authority the Legislature has given the Attorney General.

So too with the Attorney General's statutory obligations to represent the State in federal court and ADCRR in all courts, which have also been expressly granted by the Legislature. *See* A.R.S. § 41-193(A)(3); 41-192(A)(1); *see also Mi Familia Vota v. Fontes, et al.*, No. CV-22-00509-PHX-SRB (Doc. 752 at 4) (rejecting Arizona Legislators' argument that they may assert the State's interests because "the Attorney General is responsible for representing the State in federal court.").

As discussed in detail below, (Arg. § IV.B.), the County Attorney's request for a warrant of execution does not exist in a vacuum. Any such request nearly always sets off a chain reaction of time-sensitive litigation in state and federal court that only the Attorney General's Office is equipped and authorized to handle. It is not clear what the County Attorney envisions for that often-inevitable litigation if she is permitted to seek a warrant of execution. Who will then represent the State and ADCRR in future litigation in the case in state court? Or how about in federal court, where the authority to represent the State is similarly vested in the Attorney General alone? Any arguments that the County Attorney may insert herself into any of this litigation run headlong into the plain language of the statutes, just like her argument that she may seek a warrant of execution. And the alternative is that the County Attorney simply wants to make her request for an execution warrant and walk away. But the County Attorney cannot be permitted to interfere with the Attorney General's duties of legal representation—including the ability to manage the fast-moving and high-stakes litigation in the days before an execution—in this way.

II. The County Attorney's authority is limited by statute to Maricopa County courts.

Like the Attorney General's authority, the County Attorney's authority is defined by statute. *J.V. v. Blair in & for Cnty. of Maricopa*, 536 P.3d 1223, 1226, ¶ 13 (App. 2023) ("The legislature's statutory grant of authority to the county attorney [ ] tracks the 'Distribution of Powers' directive in the Arizona Constitution."). A county official must "show an express grant of power whenever they assert that [ ] statutory authority exists" because "[t]hey have only those powers that are expressly or by necessary implication delegated to them by the legislature." *Marsoner v. Pima Cnty.*, 166 Ariz. 486, 488 (1991).

The Legislature has not given the Maricopa County Attorney the authority to represent the State in this Court. Rather, that duty has been expressly committed by the Legislature to the Attorney General. *Cf. Ashton Co., Inc. v. Jacobson*, 19 Ariz. App. 371, 373-74 (1973) (rejecting county attorney's attempt to prosecute a violation of state law because the Legislature had charged another entity with the duty of enforcement and thus, "the county attorney cannot enforce [a] violation [ ] without authorization").

The County Attorney asserts that A.R.S. § 41-193(A) "affirmatively contemplates nonexclusive authority in the Attorney General" because it provides that "unless otherwise provided by law the department shall" and then goes on to list the Attorney General's duties. *State v. Gunches*, CR-13-0208-AP, Maricopa County Attorney's Motion to Set Briefing Schedule for Motion for Warrant of Execution ("MCAO Motion"), filed June 5, 2024, at 5. But this only further undermines the County Attorney's position. While § 41-193(A) certainly contemplates that other laws may govern, it requires an explicit delegation "by law" of one of the Attorney General's duties to another official. The County Attorney has not identified any law vesting her with the Attorney General's authority to represent the State in this Court.

Indeed, the Legislature recently rejected a proposal that would have provided the County Attorney some authority to seek execution warrants in this Court. *See* H.R. Con. Res. 2030, 56th Leg., 2nd Reg. Sess. (as introduced, Jan. 23, 2024) (proposing to amend the Constitution to provide "[i]f the Attorney General fails to request a writ of execution [ ] the county attorney for the county in which the person was convicted shall request the writ of execution."). This further confirms that no such power currently exists.

County attorneys are plainly authorized to represent the State when prosecuting crimes within their jurisdiction, but that representation is expressly limited by statute to county courts. *See* A.R.S. § 11-532 (providing, among other things, that county attorneys shall "[a]ttend the superior and other courts within the county and on behalf of the state, conduct all prosecutions for public offenses"). In fact, the Legislature has repeatedly limited county attorneys' authority to county courts throughout Arizona law. *See e.g.*, A.R.S. § 12-2042 (authorizing county attorney to bring action in superior court in the name of the state against any person who unlawfully holds a public office within their county); *compare* A.R.S. § 21-401 *with* A.R.S. § 21-421 (describing grand jury, for which county attorney is responsible, as "sworn to inquire into public offenses that may be tried within the county" and state grand jury, for which Attorney General is responsible, as having "jurisdiction extending throughout the state"). This legislative limitation on county attorneys' authority makes sense – county attorneys are elected by voters within their county, not on a statewide basis. As a result, they are authorized to represent the State's interests within that limited geographic area.

Aside from having no basis in law, the County Attorney's argument poses a litany of practical problems. Fundamentally, her position is that a county attorney's authority is not limited to courts within her respective county. But what is the limiting principle of that argument? If the Maricopa County Attorney may seek a warrant of execution in this Court on behalf of the State, why would she be restricted to doing so in cases arising from Maricopa County? And if the Maricopa County Attorney may represent the State in this case, why couldn't another county attorney also purport to do so? Here, County Attorney Mitchell appears to assume (MCAO Motion at 4) that because this case originated in Maricopa County, that gives MCAO an exclusive right to appear in the matter before this Court. But it is not at all clear what statute or other source of law that limiting principle is based upon.

Similarly, if a county attorney's authority is not limited to her county, then it certainly isn't limited to this Court. The Maricopa County Attorney could conceivably file a notice of intent to seek the death penalty in a case proceeding in Pima County, even where that county attorney has decided not to do so. County Attorney Mitchell's argument is also not limited to capital cases. In non-capital criminal appeals, for example, may a county

attorney who wants to argue an issue differently than the Attorney General insert herself on behalf of the State? Moreover, if county attorneys may represent the State alongside the Attorney General (and over her objection) in this Court, why not in federal court, too? And what is a Court to do when the Attorney General and County Attorney file pleadings at odds with each other? After all, even if a county attorney had broader authority to represent the State than the statutes allow, that would not displace the authority of the Attorney General.

It is difficult to overstate the ramifications of the County Attorney's position here, which would potentially force this Court and others to parse what "the State's" position is and who represents "the State" in many cases. Even setting aside the complications for any individual case, this Court (and others) could likewise be faced with simultaneous conflicting positions taken by different county attorneys in different cases, all on behalf of "the State." The Legislature has enacted a statutory scheme that avoids these problems. Under a straightforward reading of the statutes, the Attorney General represents the State in this Court. The Maricopa County Attorney does not.

III. The Victims' Bill of Rights does not alter the statutory division of power.

Under the Victims' Bill of Rights, Arizona crime victims have a right "[t]o a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence." Ariz. Const. art. II, § 2.1. Section 13-4437(C) further provides that "[a]t the request of the victim, the prosecutor may assert any right to which the victim is entitled." In her motion to set a briefing schedule, the County Attorney implies that she is authorized to institute warrant proceedings in this Court because the victims have requested her assistance in protecting their right to a prompt and final conclusion of the case. (MCAO Motion at 4–5.) This argument suffers from several flaws, including (1) that it too narrowly interprets the statute's meaning of "the prosecutor," and (2) that any statutory authority to assert the rights of a victim does not equate to statutory authority to represent the State in warrant proceedings in this Court.

Chapter 44 of Title 13, implementing the provisions of the VBR, recognizes that different agencies function as "the prosecutor" during different stages of the criminal process. For instance, § 13-4405(C) directs "the prosecutor" to receive and distribute a crime victim's request or waiver

of preconviction rights form to its department tasked with assisting crime victims. At this stage, "the prosecutor" can refer to a municipal, county, or state prosecution agency depending on the jurisdiction and severity of the alleged crime. Additionally, after criminal charges have been filed, § 13-4407 dictates that "the prosecutor" give the victim notice of their rights and the charges, among other things. Again, "the prosecutor" in this context can refer to a municipal, county, or state prosecution agency.

But post-conviction, Chapter 44 recognizes that "the prosecutor" can change. Consider § 13-4411(D). It states that "[o]n request of the victim, the prosecutor's office that is responsible for handling any post-conviction or appellate proceedings immediately shall notify the victim of the proceedings and any decisions that arise out of the proceedings." This provision contemplates that an agency other than the initial prosecuting agency may be responsible for criminal post-conviction and appellate proceedings. And in this case, "the prosecutor" squarely refers to the Attorney General's Office, as it is the "office that is responsible for handling any post-conviction or appellate proceeding." *Id.* The County Attorney's implication that she has standing under § 13-4437(C) to institute execution warrant proceedings in service of the victims' rights is therefore incorrect because she is no longer

"the prosecutor" as contemplated by Chapter 44. Indeed, the Attorney General's Office of Victim Services has been providing services to the victim in this matter for the last 16 years precisely because the Attorney General's Office is responsible for handing all post-conviction and appellate proceedings in capital cases.

Moreover, even if the County Attorney could properly assist the victim in asserting her rights here, that does not provide the County Attorney with the authority to unilaterally act in place of the Attorney General in this Court. Section 13-4437 gives standing to victims seeking to enforce a right and allows a prosecutor to assist a victim in doing so. It does not provide a prosecuting agency with any independent authority outside of what is already possessed by the victim. In other words, the statute does not permit the County Attorney to take an action on the victim's behalf that the victim could not otherwise take herself.

A victim has no authority to select a prosecutor of his or her choosing to represent "the State" in this Court. *See* A.R.S. § 13-4419(C) (a victim does not have the authority to "direct the prosecution of the case"); *Lindsay R. v. Cohen*, 236 Ariz. 565, 567 ¶8 (App. 2015) (a victim cannot "usurp the prosecutor's unique role"). To expand the scope of § 13-4437(C) as the

County Attorney suggests would once again produce unworkable conflicts. For instance, under the County Attorney's interpretation, a victim in a matter proceeding in Maricopa County who believed their rights had been violated could request the assistance of a prosecutor in Yavapai County, who would then file a motion on behalf of "the State" in Maricopa County Superior Court in an attempt to vindicate those rights.

By filing a very different type of action last year in this matter, the County Attorney appears to have recognized that what she has attempted to do here is not the proper mechanism through which her office may assist the victim in asserting a right, to the extent her office can do so at all at this stage. *See Price et al. v. Hobbs et al.*, CV2023-004976, Complaint and Petition for Special Action filed March 31, 2023 at 5 (Rachel Mitchell and MCAO joining in special action petition on behalf of a victim under § 13-4437(C) and requesting mandamus relief ordering ADCRR to carry out the execution of Mr. Gunches). The Maricopa County Attorney cannot use § 13-4437(C) to justify her attempt to expand her own statutory authority and usurp the role of the Attorney General.

IV. In the capital context, only the Attorney General is authorized to seek a warrant of execution.

A. The statute and rule allowing the State to request a warrant of execution are specific to the Attorney General.

Section 13-759(A) authorizes this Court to issue a warrant of execution "upon motion by the state." The history and context of the statute demonstrate that "the state" is limited to the Attorney General.

Under Arizona's former penal code, a superior court would issue a warrant of execution upon pronouncing judgment and sentence. Because the warrant of execution was issued at the county level, the county attorney played a role in the execution process. *See e.g., Peralta v. Sims*, 18 Ariz. 79 (1916) (it was duty of superior court to issue warrant of execution, therefore, on application of the county attorney, new execution warrant would issue); Title 10 Section 1147 Penal Code (1913) (if the defendant had not been executed notwithstanding a valid warrant, the county attorney could bring the prisoner before the superior court, who would then determine whether there was cause, and if there was not, would reissue the warrant of execution). The power to issue warrants of execution remained with the superior courts through at least the 1950s. *See* Ariz. R. Crim. P. 343 (1956)

(stating the court pronouncing sentence shall "sign and deliver to the sheriff a warrant [ ] appointing a day on which sentence is to be executed").

Decades later, as a result of the United States Supreme Court's decisions in *Furman v. Georgia*, 408 U.S. 238 (1972) and *Gregg v. Georgia*, 428 U.S. 153 (1976), an automatic appeals process was instituted in capital cases and the power to issue execution warrants was exclusively vested with the Arizona Supreme Court. *See* Ariz. R. Crim. P. 31.2(b); 26.15 (1973) (after issuing sentence of death, notice of appeal is automatically filed and "[t]he Supreme Court has the duty to set the date of execution if the case is affirmed"); Ariz. R. Crim. P. 31.17(c) (1973) (when sentence of death is affirmed the Supreme Court shall issue a warrant of execution). The Legislature followed suit and amended Arizona's death penalty scheme to add automatic direct review of convictions by the Supreme Court. *See* 1994 Ariz. Sess. Law Ch. 76 § 1. As part of these legislative changes, the warrant issuance procedure was also statutorily delegated to the Arizona Supreme Court, conforming with the Rules of Criminal Procedure already in place at that time. 1994 Ariz. Sess. Law Ch. 76 § 2. This amendment also included the provision allowing this Court to issue an execution warrant "upon motion by the state." Because the Attorney General represents the State in

this Court, it follows that "the state" as referenced in the statute means the Attorney General. This reading is consistent with the historical development of the execution warrant process. When the warrant was issued by a court within the jurisdiction of the county attorney (*i.e.*, superior court), the county attorney was a proper official to participate in the warrant process. When the warrant is issued by this Court, as it is now, the Attorney General is the proper official to request the warrant. And that is how attorneys general and county attorneys have operated for decades until now.

Additionally, because the Attorney General is the State's legal representative in this Court and in federal habeas corpus proceedings, it makes practical sense that the State, as contemplated in Rule 31.23, also means the Attorney General's Office. *See* A.R.S. § 41-193(A)(1) and (3); Ariz. R. Crim. P. 31.23(a) (providing for issuance of a warrant of execution upon filing of "a notice" that the defendant has failed to timely initiate Rule 32 post-conviction relief proceedings, a petition for review from the denial of post-conviction relief, or initiate federal habeas corpus proceedings).

This understanding is also reflected in the 2015 amendment to Rule 31.17(c)(1) (now Rule 31.23), which was altered to conserve judicial resources by conforming to the clause in A.R.S. § 13-759(A) authorizing a warrant

"upon motion by the state" (*i.e.*, the Attorney General) after federal habeas proceedings had concluded. (Motion to Strike, Exhibit B and Exhibit C).

B. The Attorney General's role as ADCRR's legal representative further confirms the Attorney General's exclusive authority to request a warrant of execution.

The Attorney General is statutorily mandated to represent ADCRR in both state and federal court. *See* A.R.S. § 41-192(A)(1). And the Legislature has expressly put supervision of the execution process in the hands of ADCRR. *See* A.R.S. §§ 13-757(A), 759(A); *see also Cook v. State*, 230 Ariz. 185, 188, ¶ 7 (App. 2012) ("It is both reasonable and constitutionally acceptable for the Legislature to delegate the details of implementing the death penalty to an agency that is 'better equipped to undertake the task' of ensuring it is implemented as uniformly and humanely as possible.") (quoting *Griffith Energy, L.L.C. v. Ariz. Dep't of Rev.*, 210 Ariz. 132, 137, ¶ 24 (App. 2005)). It follows that as ADCRR's legal representative, the Attorney General has exclusive authority to request a warrant of execution.

As this Court has recognized, requesting a warrant of execution involves an inherent avowal that the State is prepared to "carry out the sentence in compliance with state and federal law." Order Issuing Warrant of Execution filed March 2, 2023 at 7. As ADCRR's legal counsel, the

Attorney General is in a unique position to provide this avowal. In the months leading up to requesting a warrant of execution, the Attorney General must continually confer with ADCRR regarding confidential information, including ADCRR's execution protocols, lethal injection drugs, and compliance with state and federal law. For instance, ADCRR Department Order 710 requires adherence to a strict schedule of tasks that must begin 35 days before an execution (*i.e.*, immediately upon issuance of a warrant), including identifying execution team members and establishing execution teams, providing training sessions, and conducting equipment testing. ADCRR could not discuss its ability to comply with these procedures with a county attorney. *See* A.R.S. § 13-757(C) (the identity of all individuals participating or performing "ancillary functions in an execution and any information contained in records that would identify those persons is confidential and is not subject to disclosure."). And allowing a county attorney to request a warrant of execution without this critical information would undoubtedly result in warrants being issued at times when ADCRR is not prepared to carry them out, wasting judicial resources and creating unnecessary litigation.

Certain information about the execution drugs ADCRR intends to use in any given execution is also not subject to disclosure to a county attorney, but is required before an execution warrant can be requested. The Attorney General's recent practice in requesting warrants of execution has been to first move this Court to establish a briefing schedule. *See* MCAO Motion, Exhibit F. In such motions, the Attorney General conveys the method and execution drug ADCRR intends to utilize in carrying out an execution. The County Attorney contends "[u]pon information and belief" that ADCRR is prepared to carry out Mr. Gunches' execution using compounded pentobarbital because it did so in the three executions conducted in 2022. (MCAO Motion at 5–6). But this Court needs more than estimations "upon information and belief." It needs current and accurate information about ADCRR's preparedness, including information about execution drugs. Before seeking a warrant, the Attorney General confirms that ADCRR: (1) possesses the materials to compound injectable pentobarbital; (2) has retained a compounding pharmacist that can compound injectable pentobarbital within the requested timeframe; and (3) that the retained pharmacist can opine that the beyond-use-date of any such compounded pentobarbital will make it possible for ADCRR to comply with its disclosure obligations and to

carry out the execution within the timeframe specified by this Court. Considering the confidentiality required to carry out executions and maintain execution records, *see* A.R.S. § 13–757(C), county attorneys simply cannot assume the role of the Attorney General in this context.

Moreover, as noted above, requesting a warrant of execution sets off a flood of extremely time-sensitive and resource-intensive litigation in state and federal court that is handled exclusively by the Attorney General's Office. Allowing a county attorney to request a warrant of execution and start this chain reaction of litigation would be disastrous for the Attorney General's Capital Litigation Section, whose sole responsibility is to manage the State's capital appellate and capital post-conviction litigation in state and federal court.

These concerns are not theoretical. The June 8, 2022 execution of Frank Atwood provides an illustrative example. From the time this Court granted the State's Motion to Set a Briefing Schedule for Warrant of Execution on May 21, 2021, to Frank Atwood's execution on June 8, 2022, over 140 motions were filed in 14 distinct but interrelated cases in Pima County Superior Court, the Arizona Court of Appeals, the Arizona Supreme Court, United States District Court for the District of Arizona, the Ninth Circuit Court of

Appeals, and the United States Supreme Court. *See* Appendix A. The Attorney General's Office appeared in every one of these cases either on behalf of the State or on behalf of ADCRR. *Id.* Counsel from the Attorney General's Capital Litigation Section appeared at no less than three oral arguments, one of which was held in San Francisco. *Id.* In the week leading up to Frank Atwood's execution alone there were over 50 motions and briefs filed in state and federal court. *Id.* Some of this litigation has even extended beyond Frank Atwood's death. *Id.* It bears repeating that all of this litigation took place *after* the filing of a motion to set a briefing schedule like the one the County Attorney has attempted to file here. It does not encompass the hundreds (likely thousands) of other filings in the multitude of appellate and post-conviction proceedings handled by the Attorney General's Office in the 35 years after Frank Atwood's initial conviction in 1987.

This post-warrant litigation requires constant communication with ADCRR on sensitive and privileged matters regarding their internal policies and execution protocols, execution staff, and discovery and document production from ADCRR. Even in cases where ADCRR is not a party, much of the litigation centers around ADCRR's execution protocols. *See* Appendix A. The County Attorney does not purport to have the authority or ability to

manage this post-warrant litigation and allowing her to start this process would unreasonably interfere with the Attorney Generals' ability to manage the duties of her office and the department of law. *See* A.R.S. § 41-192(A)(1)-(3), (B)(1)-(3) and (D).

Such a system could also harm victims. The Attorney General's Office of Victim Services ("AGOVS") provides supportive services to all victims in capital cases post-conviction and "is the only victim advocacy office amongst Arizona prosecution offices with experience navigating every level of both the state and federal court systems." (Declaration of Amy Bocks at ¶¶ 5 and 10, attached as Exhibit A). Particularly in the capital context, AGOVS prioritizes: (1) providing continuity by having a single point of contact for the victim, and (2) being able to immediately inform the victim about case developments. *Id.* at ¶¶ 12-15. Generally, given the trauma they have experienced, victims have a limited capacity to form relationships with new individuals in the criminal process, including victim advocates. *Id.* at ¶ 14. A victim's trust in a victim advocate can also be damaged if the victim hears about a development in the criminal case from other sources, like news outlets, before hearing from their assigned advocate. *Id.* at ¶ 12. Allowing county attorneys to request a warrant of execution would directly

undermine these priorities by involving (at the very end stages of a decades-long case) new government entities in the process who may not have a relationship with the victim(s) and may not follow the same robust procedures as AGOVS, and thus are not able to engage in the kind of ongoing communication that takes place between attorneys and victim advocates within the Attorney General's Office. *Id.* ¶¶ 17-23.

CONCLUSION

The Attorney General maintains exclusive authority to request a warrant of execution from this Court by virtue of her mandatory, statutory obligation to represent the State in this Court. It is the Attorney General's responsibility to represent the State and ADCRR in all capital appellate and capital post-conviction proceedings. Thus, the authority to request a warrant of execution, which is an integral part of those post-conviction proceedings, rests exclusively with the Attorney General.

RESPECTFULLY SUBMITTED this 22nd day of July, 2024.

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