STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	
	)	
	)	
State of South Carolina,	)	
	)	
vs.	)	**MEMORANDUM**
	)	
George Stinney, Jr.,	)	
Defendant/Petitioner	)	
	)	
	)	

MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION FOR NEW TRIAL AND REQUEST FOR THE COURT TO VIEW THIS MATTER AS A PETITION FOR WRIT CORAM NOBIS

Miller W. Shealy, Jr., co-counsel with Coffey, Chandler & McKenzie, P.A., Attorneys for the Defendant, submits this supporting memorandum of law.

For purposes of this memorandum, and at all times herein, the factual claims and allegations, as well as the procedural background, set forth in the Defendant's memorandum and motion for a new trial, as well as the Defendant's response to the Solicitor's memorandum in opposition, are incorporated herein by reference. Undersigned counsel will not belabor the Court with matters already thoroughly set forth in related pleadings in this matter.

I. INTRODUCTION

In essence, the Defendant's position is that this Court has the inherent authority to consider this matter as a Petition for Writ of *Coram Nobis*. The Defendant would ask that this Court do so for the reasons that follow.

This extraordinary case should be heard by this Court: the controversy is alive and

justiciable. The State's request to dismiss this matter should be denied, and the case should be heard and continue to full and complete resolution because of the significance of the issues involved. If necessary, the Defendant's brother and surviving relatives should be allowed to represent his interests.

This case presents issues of great importance to all South Carolinians, and to the integrity of the State criminal justice process. Though this case occurred long ago, it casts and long shadow into the present. It is a shadow that lies like a pall over the Defendant's family and the State. Justice demands that these serious questions be resolved, and it is most fitting that redress be granted by the same General Sessions Court that did not work justice nearly seventy years ago. At fourteen years of age, George Stinney, Jr., may be the youngest person ever subject to the death penalty in the United States in the 20th century. His conviction was based on numerous errors and omissions, and a review of the case and other information reveals he was innocent. Moreover, the public interest demands that this great wrong be righted. To serve the public interest, this Court should neither allow this case to be summarily dismissed, nor allow the case to be swept under the rug of history. In a sense, the wrongs committed by the State in 1944 cannot be allowed to deny the Defendant's family, as the Defendant's rightful representatives, the right to clear the Defendant's name and lift the conviction and judgment that that the State still officially asserts and maintains is correct. To summarily dismiss this case for lack of standing or similar grounds is to permit the wrong committed many years ago to actively continue. The State's errors of the past should not continue to actively work today to bar the Defendant from the justice it denied him and his family long ago.

II. THE WRIT OF CORAM NOBIS

A. The Common Law Origin of the Writ of Coram Nobis

The writ of error *coram nobis* "was available at common law to correct errors of fact" that occurred in proceedings before the King's Bench.[1] At its inception, the writ was utilized in both civil and criminal cases and there was no time limitation for presenting facts that affected the "validity and regularity" of a previous judgment.[2] As recognized by the U.S. Supreme Court in *United States v. Morgan*, the writ "has had a continuous although limited use also in our states[3]...with and without statutory authority but always with reference to its common law scope..."[4] The State Supreme Court has also recognized this historic function of *coram nobis*:

> The principal function of the writ of *coram nobis* is to afford the Court an opportunity to correct its own record with reference to a vital fact not known when the judgment was rendered and which could not have been presented by a motion for a new trial, appeal or other existing statutory proceeding. It lies for an error of fact not apparent on the record, not attributable to the appellant's negligence, and which if known by the Court would have prevented rendition of the judgment. It does not lie for newly discovered evidence or newly arising facts or facts adjudicated on the trial. It is not available where advantage could have been taken of the alleged error at the trial, as where the facts complained of were known before or at the trial, or where at the trial the accused or his attorneys knew of the existence of such facts but failed to present them. *Dobie v. Commonwealth*, 96 S.E.2d 747 (Va. 1957), and the authorities therein cited. A person seeking relief by a writ of *coram nobis* has the burden of sustaining the allegations of his

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[1] United States v. Morgan, 346 U.S. 502, 507 (1954) (citing 2 Tidd's Practice (4th Amer. ed.) 1136-1137.

[2] *Id.* (citing Stephens, Principles of Pleading (3d Amer. ed.), 143; 2, Bishop, New Criminal Procedure (2d ed.) 1181).

[3] *Id.* (noting that a collection of applicable cases appear in an article by Abraham Freeman, Esq., 3 Temple L.Q. 365, 372); *See also* United States v. Mandel, 862 F.2d 1067 (4th Cir. 1988) (granting writ); Hirabayashi v. United States, 828 F.2d 591 (9th Cir. 1987) (granting writ); Korematsu v. United States, 584 F. Supp. 1406 (N.D. Cal. 1984) (granting writ); Dobie v. Commonwealth, 96 S.E.2d 747 (Va. 1957) (denying writ but acknowledging its availability); State v. Liles, 142 S.E.2d 433 (S.C. 1965) (denying writ but acknowledging its availability).

[4] *Id.* at 508 (citing as examples *Ex parte* Toney, 11 Mo. 661; Adler v. State, 35 Ark. 517; Sanders v. State, 85 Ind. 318; Hogan v. Court , 296 N.Y. 1, 9, 08 N.E.2d 849).

> petition by a preponderance of evidence. *Shelton v. State*, 123 S.E.2d 867 (S.C. 1962).[5]

In addition, *coram nobis* was and is a limited remedy. It may be utilized only if no other remedy is available.

> *Coram nobis* relief can be secured only if no other remedy is available to the applicant. Accordingly, a proceeding in the nature of *coram nobis* cannot be used as a substitute for a motion for a new trial, a motion to vacate a judgment, an appeal, a writ of habeas corpus, or some other proper and available procedure for obtaining relief for the defendant in a criminal case. In other words, if an issue in the case, concerning which relief is sought by the defendant, could have been raised by a remedy other than *coram nobis*, the issue cannot be reviewed in a *coram nobis* proceeding.[6]

Ultimately, *Coram nobis* is predicated on doing justice.

> A writ of error *coram nobis* must be allowed, where such a remedy is available, when a conviction is wrongful because it is based on an error of fact or was obtained by unfair or unlawful methods and no other corrective judicial remedy is available. The writ of error *coram nobis*, which is available on a proper showing for the purpose of reviewing a judgment after the time for an appeal has expired, meets the requirement of due process of law under the Fourteenth Amendment of the United States Constitution. Such a writ must be allowed where a conviction is wrongful because based on an error of fact or obtained by unfair or unlawful methods and no other corrective judicial remedy is available.[7]

It has been held that *coram nobis* "is essentially assurance that the guarantees of due process under the Federal Constitution will not be denied as a result of the technical limitations of other remedies."[8]

Coram nobis, therefore, has a long history as an available post-conviction remedy in both state and federal courts in the United States.

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[5] State v. Liles, 142 S.E.2d 433, 440 (1965). See also Neighbors v. Virginia, 650 S.E.2d 514 (Va. 2007) and 18 Am. Jur. Trials 1 §1 et. seq.
[6] 18 Am. Jur. Trials 1 §4.
[7] 16C C.J.S. Constitutional Law § 1693.
[8] 18 Am. Jur. Trials 1 §1.

B. United States v. Morgan

In *United States v. Morgan*, the U.S. Supreme Court recognized the writ of *coram nobis* as the "sole mechanism for post-incarceration judicial review of federal convictions."[9] *Morgan* involved an individual convicted and sentenced in federal court in New York to a term of four years incarceration. After serving his sentence, Morgan was convicted in a New York state court and sentenced to a longer prison term as a repeat offender. Morgan filed an application for a writ of error *coram nobis* in the federal district court, in which he was first convicted, on the grounds that his constitutional rights were violated by the government's failure to provide him with counsel, without his valid waiver of such.[10] Noting that the application was in the form of a motion seeking an order voiding the judgment, the Court nonetheless treated it as a "motion in the nature of a writ of error *coram nobis* enabling the trial court to properly exercise its jurisdiction."[11]

In holding that Morgan had a right to seek a writ of error *coram nobis* in the trial court in which he was tried and convicted, the Court stated:

> Where it cannot be deduced from the record whether counsel was properly waived, we think, no other remedy being then available and sound reasons existing for failure to seek appropriate earlier relief, this motion for the extraordinary writ of *coram nobis* must be heard by the federal trial court. *Otherwise a wrong may stand uncorrected which the available remedy would right.*[12]

The Court also cited a previous case—*United States v. Mayer*[13]—for the premise that "*coram nobis* include[s] errors 'of the most fundamental character.'"[14] Writing in closing for the

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[9] David Wolitz, *The Stigma of Conviction: Coram Nobis, Civil Disabilities, and the Right to Clear One's Name*, 2009 B.Y.U. L. Rev. 1277 (2009).
[10] United States v. Morgan, 346 U.S. 502, 504 (1954).
[11] *Id.* at 505.
[12] *Id.* at 512 (citation omitted) (emphasis added).
[13] 235 U.S. 55 (1919).

majority, Justice Reed stated: "Although the term has been served, the results of the conviction may persist...As the power to remedy an invalid sentence exists, we think, respondent is entitled to an opportunity to attempt to show that this conviction was invalid."[15]

Another essential part of the Court's holding in *Morgan* is their reference to Chief Justice Marshall's decision in *Strode v. Stafford Justices*.[16] In that case, one party objected to petitioner's application for a writ of *coram nobis* to set aside a 14-year-old judgment, on the grounds that the issue was mooted by the death of one party prior to the judgment. Marshall overruled that objection, holding that *coram nobis* was the only remedy available and thus, must be allowed to stand.[17]

The Court's holding in *Morgan* did more than uphold the right to seek writs of *coram nobis*; it also expanded the scope of the remedy beyond the curing of previously unknown factual errors to include also the curing of any error, including errors of law, that are "of the most fundamental character."[18] The Court also made clear that, although Rule 60(b) of the Federal Rules of Civil Procedure expressly abolished the availability of the writ of *coram nobis* in civil actions, that prohibition did not affect its continued availability in criminal cases.[19]

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[14] Morgan *supra* note 10 at 512. *See also id.* at 69 (noting that errors of "fundamental character" are those that "rendered the proceeding itself irregular or invalid.").
[15] *Id.* at 512-513.
[16] Morgan *supra* note 10, at 251-52.
[17] *Id.* at 251-52.
[18] Wolitz *supra* note 9, at 6. *See also* note 10 (providing guidance as to what constitutes "fundamental character").
[19] Morgan *supra* note 10, at 506 n.4 ("we do not think that Rule 60(b), Fed. Rules Civ. Proc., 28 U.S.C.A., expressly abolishing the writ of error *coram nobis* in civil cases, applies."). The situation is similar in South Carolina, as *coram nobis* is no longer available in civil cases. Rule 60(b), SCRCP and Mr. T. v. Ms. T, 662 S.E.2d 413, 417 (S.C. Ct. App. 2008). However, nothing exists in South Carolina law to bar *coram nobis* in criminal cases.

C. Modern Application and the Civil Disabilities Test

Following *Morgan*, *coram nobis* is recognized as a writ, available to any convicted person that is no longer incarcerated (or never was), to correct errors of "fundamental character," which include factual, constitutional, or other legal defects in the original trial and conviction.[20] Therefore, the availability of relief under a writ of *coram nobis* has been recognized as requiring the fulfillment of four criteria: (1) no other legitimate remedy is available; (2) there are valid reasons for not attacking the conviction earlier; (3) adverse consequences exist from the conviction that are sufficient to satisfy the Article III case or controversy requirement; and (4) the error alleged is of the most fundamental character.[21] Additionally, there are two generally recognized grounds for seeking a writ of *coram nobis*: (1) In instances where the criminal law that served as the basis for a petitioner's prior conviction is subsequently invalidated, such that the acts upon which the petitioner was convicted are no longer criminal;[22] and (2) in cases where new evidence is discovered that was unavailable, or infeasible to acquire through reasonable diligence, at the time of conviction, and the evidence, if possessed at trial could not have allowed for a conviction.[23]

Today, there is a circuit split in federal appeals courts regarding the third element in this test (the existing injury/case in controversy requirement). Although there is agreement among the circuits that errors of "fundamental character" are virtually identical to those defects that justify relief under *habeas corpus*,[24] there is a difference in opinion as to what constitutes an existing

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[20] Wolitz *supra* note 9, at 7.
[21] United States v. Mandel, 862 F.2d 1067, 1077 (4th Cir. 1988).
[22] *See Id.*
[23] *See* Hirabayashi v. United States, 828 F.2d 591 (9th Cir. 1987).
[24] Wolitz *supra* note 9, at 7 (citing United States v. Doe, 867 F.2d 986, 988 (7th Cir. 1989); Pitts v. United States, 763 F.2d 197, 199 n.1 (6th Cir. 1985); United States v. Little, 608 F.2d 296, 299 (8th Cir. 1979); United States v. Travers, 514 F.2d 1171, 1173 n.1 (2d Cir. 1974)).

adverse consequence. The majority of federal circuits follow the Civil Disabilities Test developed by the Seventh Circuit Court of Appeals in *United States v. Keane*,[25] *United States v. Bush*,[26] and *United States v. Craig*.[27] The Civil Disabilities Test requires the meeting of three elements: (1) the disability causes present harm (speculative or past harms are insufficient); (2) the disability must be the result or arise out of the erroneous conviction; and (3) the potential harm to petitioner is more than merely incidental.[28]

But the Ninth Circuit departed from such a strict Civil Disabilities requirement and found instead, in *Hirabayashi v. United States*, that no **special** disability is required to seek relief via *coram nobis*.[29] In *Hirabayashi*, a Japanese-American was convicted in the 1940s of violating the wartime curfew and internment laws applied during World War II. Over 40 years later, Hirabayashi sought relief via a writ of *coram nobis*, arguing that documents uncovered in 1982 proved that the motivation behind the curfew and internment laws was not military necessity but racism and prejudice against Japanese Americans. Hirabayashi thus claimed the discovery of previously unknown evidence as a rationale for seeking *coram nobis* relief. The government argued that the issue was moot, since Hirabayashi had already served his three-month sentence, and thus, was suffering from no current legal disabilities. The Ninth Circuit rejected the government's contentions, granting *coram nobis* relief and vacating Hirabayashi's forty-year-old conviction. The court reasoned, "adverse consequences exist from the conviction sufficient to satisfy the case or controversy requirement of Article III" and that there is a "presumption that

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[25] 852 F.2d 199 (7th Cir. 1988) (holding that a party pursuing *coram nobis* relief "must demonstrate that the judgment of conviction produces lingering civil disabilities (collateral consequences)" that must be "unique to criminal convictions.").
[26] 888 F.2d 1145 (7th Cir. 1989).
[27] 907 F.2d 653 (7th Cir. 1990).
[28] Wolitz *supra* note 9, at 10 (citing United States v. Craig, 907 F.2d 653, 658 (7th Cir. 1990)).
[29] *Id.* at 11.

collateral consequences flow from any criminal conviction."[30] As Wolitz points out, *Hirabayashi* stands for three main holdings: (1) every criminal conviction results in potential collateral consequences; (2) that potential is sufficient to establish the standing necessary for *coram nobis* relief; and (3) only ordinary standing, and nothing further, is required to permit *coram nobis* review.[31]

The Fourth Circuit has also spoken as to the availability of *coram nobis*,[32] but has avoided explicit acknowledgment of the Civil Disabilities Test as a necessary prerequisite to relief.[33] In *United States v. Mandel*, the court granted *coram nobis* relief to several politicians previously convicted of mail fraud and racketeering. The petitioners had all finished serving their sentences and were no longer incarcerated five years prior to bringing the action. In vacating the 10-year-old judgments, the court, citing *Morgan*, stated that *coram nobis* should be issued "only under circumstances compelling such action to achieve justice" and that the writ was proper because the parties "have no other remedy available other than a writ of error *Coram nobis*."[34]

Aside from the majority opinion, a statement from Judge Hall in dissent provides particularly valuable guidance as to the issue of the availability of *coram nobis*. Referring to *United States v. Travers*, a case involving a mail fraud law that was found invalidated after Travers served his sentence, Judge Hall stated: "Clearly, this is a situation where justice compels issuance of the writ **because Travers had committed no crime.**"[35] The contention here is that Stinney is innocent.

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[30] Hirabayashi v. United States, 828 F.2d 591, 606 (9th Cir. 1987).
[31] Wolitz *supra* note 9, at 12.
[32] *See* United States v. Akinsade, 686 F.3d 248 (4th Cir. 2012); United States v. Mandel, 862 F.2d 1067 (4th Cir. 1988).
[33] Wolitz *supra* note 9, at 11 n.130.
[34] United States v. Mandel, 862 F.2d 1067, 1075 (4th Cir. 1988).
[35] *Id.* at 1077 (J. Hall dissenting) (emphasis added).

D. Is Coram Nobis barred by the Post Conviction Relief Act?

South Carolina has long recognized the availability of *coram nobis* relief in its state courts.[36] While it is true that Rule 60 SCRCP expressly states that writs of *coram nobis* are abolished in the state, that rule applies to civil actions where *coram nobis* was previously appropriate, and does not negate the availability of *coram nobis* principles and procedures as a remedy in criminal cases.[37] The South Carolina Uniform Post-Conviction Procedure Act provides the primary form of post-conviction relief available in the courts of the state.[38] Additionally, regarding the subsequent discovery of evidence not available at trial, the Act provides:

> If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.[39]

The Act also directs applicants to the court of original jurisdiction[40] and provides form and procedure requirements for applications.[41] However, even if these statutory requirements are impossible to meet, the common law still provides potential remedies via *coram nobis*.[42]

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[36] *See* State v. Liles, 142 S.E.2d 433 (S.C. 1965); Hill v. Watson, 10 S.C. 268 (1878).
[37] *See* S.C. Code Ann. § 17-23-110 (1976) ("All the circuit courts of this State shall have power to grant new trials in cases in which there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law of the United States"); United States v. Morgan, 346 U.S. 502, 506 n.4 (1954); *See also* Hanan v. United States, 402 F.Supp.2d 679, 688 (E.D.Va. 2005) ("In the context of a motion seeking vacatur of a criminal conviction, the standard for relief must be the same irrespective of whether the motion is styled as a petition for writ of *coram nobis* or as a motion for relief from judgment pursuant to Rule 60(b) Fed.R.Civ.P.").
[38] *See* S.C. Code Ann. § 17-27-20(a)(1) (1976). *See also* Brief of Amicus Curiae Capital Area Immigrants' Rights Coalition in Support of Petitioner, Morris v. Commonwealth of Virginia, No. 10-1498, 2011 WL 2743199 (US) (Appellate Petition, Motion and Filing) (Va. July 14, 2011) (On Petition for a Writ of Certiorari to The Supreme Court of Virginia).
[39] S.C. Code Ann. § 17-27-45(c) (1976) (emphasis added).
[40] S.C. Code Ann. § 17-27-30 (1976).
[41] S.C. Code Ann. § 17-27-50—17-27-160 (1976).

The South Carolina Supreme Court has stated that the main purpose of a writ of *coram nobis* "is to afford the Court an opportunity to correct its own record with reference to a vital fact not known when the judgment was rendered and which could not have been presented by a motion for new trial, appeal or other existing statutory proceeding."[43] The Court further stated, "[a] person seeking relief by a writ of *coram nobis* has the burden of sustaining the allegations of his petition by a preponderance of evidence."[44] Therefore, where all other valid remedies are barred, common law *coram nobis* is available to provide relief in situations where it is the only possible remaining avenue by which to "achieve justice."[45]

Lastly, it is worth noting that throughout the provisions of the Post Conviction Relief Act it refers to the "applicant" and uses other references to indicate that a deceased person, their estate, or surviving representatives do not have rights under the Act. This is another reason to proceed in *coram nobis*.

E. Do Stinney's Family Members Have the Right to Represent Him in this Coram Nobis Claim?

Yes. As noted above, coram nobis is an extraordinary remedy, designed to protect fundamental due process rights. Basic civil rights claims can survive death.[46] Judge Blatt ruled that the right to procedural due process is an injury to the person that **survives** to the personal representative.[47] South Carolina's survivor statute gives ones survivors certain rights that

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[42] *See* Morgan *supra* note 2.
[43] State v. Liles, 142 S.E.2d 433, 440 (S.C. 1965).
[44] *Id.* (citing Shelton v. State, 123 S.E.2d 867).
[45] United States v. Mandel, 862 F.2d 1067, 1075 (4th Cir. 1988).
[46] Burt v. Abel, 466 F.Supp. 1234 (D.C.S.C. 1979).
[47] *Id.*

belonged to the deceased. Legal claims survive the decedent and inhere to family members or others.[48]

The death of the party involved in the original proceeding traditionally did not prevent the effective use of a writ of error *coram nobis*.[49] Indeed, one of the principal forces underlying the development of *coram nobis* was the need for a decedent's personal representative to correct the record where a judgment had been entered against the decedent following his or her death.[50]

The American courts have also recognized that the *coram nobis* remedy was not barred by a defendant's death. In *Strode v. The Stafford Justices*, 23 F. Cas. 236 (C.C.D. Va. 1810) (No. 13,537), the plaintiff had obtained a judgment against two defendants. Unknown to the trial court, one defendant had died prior to the entry of judgment, and the plaintiff had not moved to name that defendant's executor as a nominal defendant. Subsequently the executor sought a writ of error *coram nobis* seeking to reverse the Judgment. Chief Justice Marshall, sitting as circuit justice, squarely upheld the personal representative's right to use *coram nobis* in this situation. Id. at 236-37. As *Strode* demonstrates, *coram nobis* is available to a person acting in a representative capacity.[51]

It is equally true that coram nobis has been available in criminal cases to one acting in a representative capacity. For example, in *Adler v. State*, 35 Ark. 517 (1880), a defendant was convicted of murder despite the fact that he was apparently insane at the time of trial. After

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[48] S.C. Code Ann. § 15-5-90.

[49] See generally Jaques v. Caesar, 85 Eng. Rep. 776, 776 n.1 (1668), and Pickett's Heirs v. Legerwood, 32 U.S. (7 Pet.) 144, 148 (1833).

[50] Meggot v. Broughton, Cro. Eliz. 106, 78 Eng. Rep. 364, 364 (1588) (coram nobis held appropriate where, unknown to the court, one of two defendants in an assumpsit action died between the verdict and entry of judgment); see also Jaques v. Caesar, 85 Eng. Rep. at 776 n.1 (citing Meggot approvingly).

[51] Weaver v. Shaw, 5 Tex. 286, 287-88 (1849) (discussing an executor's ability to pursue a writ of error *coram nobis* where a litigant had died prior to entry of Judgment).

conviction his best friend sought a writ of error *coram nobis* on the defendant's behalf, based on the defendant's insanity at trial. The Arkansas Supreme Court specifically held that *coram nobis* was the correct remedy. 35 Ark. at 530. Similarly, in *Ex parte Toney*, 11 Mo. 661 (1848), a slave was convicted of larceny and sent to prison. The trial court, however, did not know that he was a slave. Since at that time Missouri law did not permit slaves to be imprisoned for such offenses, the slave's owner sought his release through a writ of habeas corpus. The Missouri Supreme Court ruled that habeas corpus was unavailable because no error appeared on the face of the record, and held that *coram nobis* was the appropriate remedy. 11 Mo. at 663. In another case, a widow sued the state prosecutor, police and others, some fifty years after the conviction and execution of her husband. Her petition for writ of error *coram nobis* was denied by the federal district court in New Jersey, which held that *coram nobis* is only available from the court that entered the judgment of conviction. Since her husband had been convicted in a state court, "[a]ny relief that petitioner [the widow] seeks by way of a writ of error *coram nobis* must be directed at the state level."[52] The court, therefore, recognized that *coram nobis* was available to the widow, acting on her late husband's behalf, in a representative capacity. She had merely brought the *coram nobis* action in the wrong court.

Thus, the history of *coram nobis* illustrates that *coram nobis* actions survive the death of a criminal defendant, and that such actions may be brought and pursued by the decedent's representative.

[52] Hauptmann v. Wilentz, 570 F. Supp. 351, 401 (D. N.J. 1983).

III. CONCLUSION

We have established that George Stinney, Jr., or his legal representatives, are entitled to the extraordinary Writ of *Coram Nobis*. He and they have no other remedy. There were many errors of fact and law in his trial and related proceedings. The judgment of conviction against George Stinney, Jr., must be vacated.

Respectfully Submitted

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