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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
COURT OF GENERAL SESSIONS

R. Scott Sprouse, Circuit Court Judge

Case No.: 2018GS0402885

The State.....Respondent

v.

Adam Don Lawless.....Appellant

MOTION TO STAY AND/OR REMAND

Comes now the undersigned attorney, William N. Epps III, hereby respectfully moves that this appeal be stayed pending the resolution of the motion for new trial on after discovered evidence under Indictment No.: 2018GS0402885, State of South Carolina v. Adam Don Lawless, filed April 18, 2023, attached hereto and incorporated herein by reference. The Appellant's father, James Lawless did admit to the undersigned after the trial that he murdered the victim and a hearing is scheduled on May 15, 2023 at 2:00 pm in the Anderson County Court of General Sessions. The trial court's decision on the motion for new trial will have a direct affect on the outcome of this appeal.

Therefore the Appellant respectfully requests that this matter be stayed until the resolution of the motion for new trial on after discovered evidence under Indictment No.: 2018GS0402885 and/or that this matter be remanded if necessary. The undersigned does hereby certify that he has discussed and reviewed this motion with the Appellant prior to the filing of the motion and this motion is being filed to protect the rights and interests of the Appellant.

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Attorney for Appellant

May 2, 2023

Other Counsel of Record:

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S.C. Commission on Indigent Defense
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STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,
PLAINTIFF,

MOTION FOR NEW TRIAL ON AFTER
DISCOVERED EVIDENCE

-v-

INDICTMENT NO.: 2018GS0402885

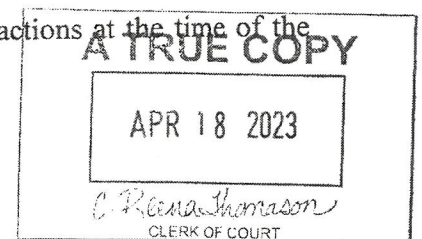
ADAM DON LAWLESS,
DEFENDANT.

TO: THE HONORABLE R. SCOTT SPROUSE, AND ANDERSON COUNTY SOLICITOR
DAVID R. WAGNER, TENTH JUDICIAL CIRCUIT AND KRISTIN W. REEVES, ASSISTANT
SOLICITOR:

PLEASE TAKE NOTICE that the Defendant, Adam Lawless, by and through his undersigned attorney, will move before the presiding Judge of the Tenth Judicial Circuit in the Court of General Sessions, within ten (10) days after service thereof, or as soon as this motion can be heard, for the purpose of requesting that a new trial be granted from a jury verdict on April 14, 2023 based on after discovered evidence.

The Defendant's jury trial began on April 10, 2023, and the jury found Defendant guilty of murder on April 14, 2023, at or about 2:40 pm. At or about 3:50 pm, the Defendant's parents James and Donna Lawless, were in the undersigned's parking lot having a discussion. After several minutes, James and Donna Lawless came into the undersigned's office and proceeded to have a private conversation with the undersigned. For more detail, please see the affidavit attached hereto and incorporated herein by reference. In summary, James Lawless admitted, in front of undersigned and Donna Lawless, that he was the person who murdered Tabatha Duncan and said that Adam Lawless was innocent.

Donna Lawless stated that she did not know of her husband's actions at the time of the



murder. Sometime later, she confronted James Lawless and he told her that he had murdered Tabatha. Donna Lawless said she had not told anyone what she learned from her husband.

The undersigned advised both James and Donna Lawless that they needed to engage separate counsel, to report the facts described to undersigned to law enforcement. At the time of the discussion on Friday, April 14, 2023, James Lawless advised he was willing to speak with his own counsel and confess to the authorities what he had told undersigned.

On or about April 14, 2023 at 9:20 pm the undersigned received an email from Donna Lawless that stated the following:

“Please take care of Adam, I never would have thought helping someone with their taxes would cause all of this. I feel so responsible for everything. Adam is a good man and did not do this.

Please for me make sure he gets released no matter what. Make sure you tell him how proud I am he is my son and I love him with all my heart.

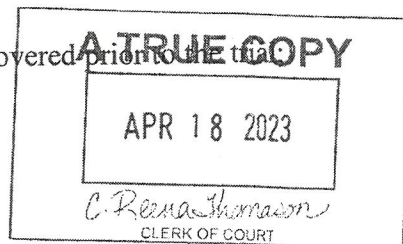
*Love Always,
Donna.*

*Love,
Donna.”*

The undersigned received notification at 7:27 pm on Saturday, April 15, 2023, that Donna Lawless had been hospitalized and intubated, from an apparent drug overdose. She is currently in ICU at an Anderson Area hospital and undergoing tests.

Pursuant to South Carolina Law, in order for Defendant to prevail in this new trial motion, he must show the after-discovered evidence:

- (1) is such that it would probably change the result if a new trial were granted;
- (2) has been discovered since the trial;
- (3) could not in the exercise of due diligence have been discovered prior to the trial.



(4) is material; and

(5) is not merely cumulative or impeaching.

State v. Prince, 316 S.C. 57, 447 S.E.2d 177 (1993). See *State v. Spann*, 334 S.C. 618, 619–20, 513 S.E.2d 98, 99 (1999).

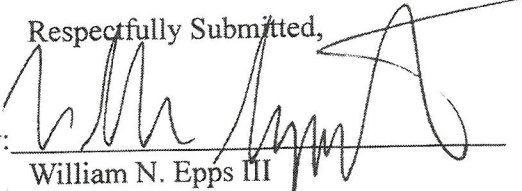
In the case at bar, James Lawless admitted to murdering Tabatha Duncan the morning of March 12, 2018, after the Defendant left 202 E. Broad Street, Iva, SC, to spend his day working at Meineke. If this evidence is offered at trial, it would most certainly change the result if a new trial were granted. This evidence was discovered after the jury verdict on April 14, 2023, and could not, in the exercise of due diligence, on the part of the Defendant, have been discovered prior to the trial because both James and Donna Lawless kept silent and/or lied about what they did or knew about the actual events on March 12, 2018. The evidence is material in that James Lawless does admit to the murder of Tabatha Duncan and this new information is not cumulative or impeaching. In fact, James Lawless' admission is consistent with the known facts of the crime.

The undersigned does hereby certify that he has discussed and reviewed this motion with the Defendant prior to the filing of the motion, and this motion is being filed to protect the rights and interests of the Defendant.

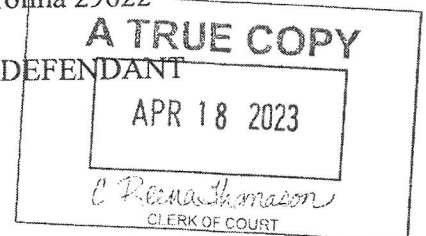
This Motion is based upon the applicable law and Statutes of the State of South Carolina.

Respectfully Submitted,

By:


William N. Epps III
Post Office Box 2167
Anderson, South Carolina 29622
(864) 224-2111
ATTORNEYS FOR DEFENDANT

April 18, 2023
Anderson, South Carolina



STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA,
PLAINTIFF,

AFFIDAVIT OF WILLIAM N. EPPS, III

-v-

INDICTMENT NO.: 2018GS0402885

ADAM DON LAWLESS,

DEFENDANT.

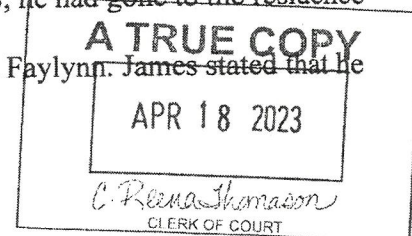
PERSONALLY appeared before me, William, N. Epps, III, who being duly sworn states

as follows:

My name is William N. Epps, III. I am an attorney licensed to practice law in the State of South Carolina. I represent the above named Defendant, Adam Don Lawless, in regards to Indictment No. 2018GS0402885. The Defendant's jury trial began on Monday, April 10, 2023, and the jury found the Defendant guilty of murder on Friday, April 14, 2023 at or about 2:40 p.m.

Following the conclusion of the trial, I returned to my office located at 230 W. Whitner Street in Anderson, SC. Upon my return, at or about 3:50 pm, the Defendant's parents, James and Donna Lawless, were in my parking lot having a discussion. After several minutes passed, James and Donna Lawless entered my office building and continued to have a discussion at the back door. Shortly thereafter, James and Donna entered my office and I shut my door for privacy. While in my office, Donna looked at James and stated "Are you going to tell him?" James then proceeded to tell me that he is the one who murdered Tabatha Duncan, not the Defendant.

James explained that on the morning of March 12, 2018, ~~he had gone to the residence~~ located at 202 E. Broad St., Iva, SC to check on the minor child Faylynn. ~~James stated that he~~



was able to gain entry into the home, as Tabatha had left her keys in the door. He then proceeded to the minor child's bedroom. Once he entered the bedroom an argument ensued between him and Tabatha that led to an altercation.

James Lawless further provided in detail that the altercation moved from the minor child's bedroom into the kitchen wherein Tabatha obtained a knife. While James attempted to remove the knife from Tabatha's possession, the knife cut her. James said after this his recollection of events does get hazy as he believes that he blacked out. James explained that when he came to, he saw Tabatha on the mudroom floor, covered in blood. James stated that there was a speaker missed by SLED that was covered in blood. He said that this speaker was used during the attack. James then stated that once he realized what happened, he attempted to clean the scene, to include putting Tabatha's keys in the sink and covering them in hand sanitizer. Prior to exiting the residence out of the backdoor, he did give the minor child Faylynn, who was still in the bedroom, a sippy cup then shut the door. He then proceeded home to 130 HH Foster Drive in Iva, SC.

James arrived home through the secondary driveway located at the back side of the residence. Prior to entering his home, he got into the hot tub and cleaned his body. He then placed his bloody clothes, Tabatha's cell phone and other items into the boat located on the property.

James admitted that it was in fact his red two door chevrolet cavalier that Thomas Brooks testified that he saw parked at the car wash across the street and it was James who was seen walking from the direction of 202 E. Broad St., get into the cavalier and drive away. James further admitted that after the incident, he burned the bloody clothes that were in the boat and took the cell phone and other items to Lake Russell where he dumped them in the lake.

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APR 18 2023
C. Reena Thomason
CLERK OF COURT

Donna Lawless was present during this admission. When asked if she was aware of what occurred, Donna explained that subsequent to March 12, 2018, on a few occasions while James was sleeping, he talked in his sleep and made disturbing comments. She finally confronted him regarding some of those comments and James told her what he had done. Donna did state that "If SLED would have searched their home on March 12, 2018; they would have found the bloody clothes and Tabatha's items in the boat."

James and Donna both explained that they believed it would not be possible for their son, Adam Lawless, to be found guilty of a crime that he did not commit. They further explained that at the time, James was the only member of the household who had any income. That once Adam was released on bond, the only way to afford his ankle monitor and legal fees, was with the money that James brought into the household.

I did advise both parties, particularly James, that they needed to engage separate counsel, to report the facts described to me to law enforcement. At the time of the discussion on Friday, April 14, 2023, James advised he was willing to speak with his own counsel and confess to the authorities what he had told me.

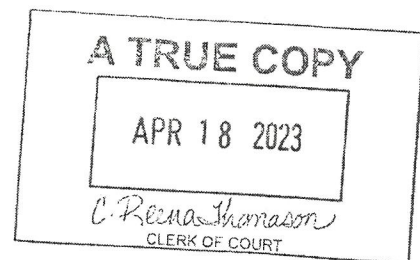
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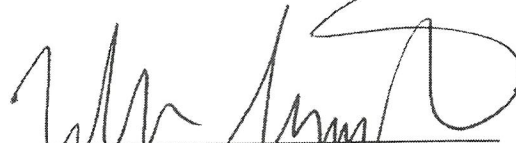
Please for me make sure he gets released no matter what. Make sure you tell him how proud I am he is my son and I love him with all my heart.

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William N. Epps, III

SWORN TO BEFORE ME ON THIS
18th DAY OF APRIL, 2023



NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 5/22/23

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APR 18 2023
C. Reena Thomason
CLERK OF COURT

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PROOF OF SERVICE

I certify that I have served the Motion to Stay and/or Remand, on David Wagner, Solicitor for the State of South Carolina, Kristin Reeves, Assistant Solicitor for the State of South Carolina and Della White, with the South Carolina Commission on Indigent Defense, by depositing a copy of it in the United States Mail, with postage prepaid, on May 2, 2023, addressed to David Wagner, Solicitor and Kristin Reeves, Assistant Solicitor for the State of South Carolina, at Post Office Box 8002, Anderson, South Carolina and Della White, with the South Carolina Commission on Indigent Defense, 1330 Lady Street, Columbia, SC 29201.

May 2, 2023

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ATTORNEY FOR APPELLANT