

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

CASE NO. 2024-001397

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FREDDIE EUGENE OWENS

*Petitioner,*

v.

BRYAN STIRLING, DIRECTOR OF THE SOUTH CAROLINA DEPARTMENT OF  
CORRECTIONS, AND

THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

*Respondents.*

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PETITIONER'S REPLY IN SUPPORT OF EMERGENCY MOTION TO RECONSIDER

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With Steven Golden's sworn statement that "Freddie Owens is not the person who shot Irene Graves at the Speedway on November 1, 1997," and that "Freddie was not present when I robbed the Speedway that day," there is no reliable evidence implicating Owens in Ms. Graves's murder. As this Court has acknowledged, "[n]o forensic evidence connected Owens to the crime scene." *State v. Owens*, 346 S.C. 637, 647 (2001). The Speedway's surveillance video shows two masked men who cannot be identified. Steven Golden is the only person who identified Owens as one of the masked men. Yet the State maintains that Owens should be executed anyway because Owens's purported self-inculpatory statements are sufficient to sustain his conviction and sentence. This is untenable. This Court cannot, with any conscience, allow Owens's execution to proceed without a hearing on the compelling evidence that he is innocent.

In the first place, the statements Owens allegedly made are not nearly as inculpatory or reliable as the State would have this Court believe. What the State quotes as "admissions" to

Officers Joe Wood and Ken Evett, for example, are nothing of the sort. Neither statement was ever offered before the 2006 sentencing jury. While Detective Wood testified during the 1999 trial, at no time did he claim that Owens admitted to being the shooter. Instead, Detective Wood claimed that Owens “said he would like to take the blame for all this, but he wasn’t going to take it all himself.” 1999 Tr. at 2541. Investigator Willis testified that Owens gave a written statement denying involvement, but also made non-recorded oral statements that “he knew who did the crime, but he didn’t want to be a snitch.” *Id.* at 2799. After this statement, Willis claimed that Owens said “I shot the lady, but if I tell you I’m dead.” *Id.* However, Willis admitted that he had no written notes to support this claim. *Id.* at 2809. Willis also testified that he prepared a written report dated November 10, 1997, stating that a confidential informant told him that Steven Golden was the shooter in the Speedway case. *Id.* at 2819. Willis later claimed at trial that the informant also said Owens was involved, but his written report did not support that assertion. *Id.* at 2819-20. Willis could not explain why his written report only indicated that the informant said Golden was the shooter and not Owens. *Id.* at 2819, 2822. While the State might object to the tenor and bravado of Mr. Owens’s responses to the officers, they fall well short of a confession to Ms. Graves’s murder. And the officers’ disdain and other emotional reactions to Mr. Owens’s demeanor have no relevance whatsoever.

The State also relies on a disavowed written statement that police had Owens’s mother, Dora Mason, sign without reading it to her, despite her limited literacy. 1999 Tr. at 117–28; 1999 ROA at 2036–41. Months before trial, when the substance of the statement was finally read to her, Dora told the Solicitor that the statement that Owens told her he had “killed a woman” was not correct and that Owens had told her no such thing. 1999 Tr. at 128; 1999 ROA at 2041. The Solicitor responded that she “d[id]n’t care what [Dora said, and she was] using this statement

anyway.” *Id.* This disavowed statement has little weight. Neither does Owens’s supposed response to being taunted that his mother “was going to turn him in,” which, for all of the bravado meticulously quoted by the State, in no way implicates him in Ms. Graves’s murder.

The State acknowledges that Owens’s other co-defendant, Nakeo Vance, testified at Owens’s 1999 trial but refused to testify at Owens’s 2006 resentencing trial. The State does not note that Vance’s sentence for crimes related to November 1, 1997, was reduced to “time served” just days after his testimony implicating Owens.<sup>1</sup>

In sum, by the time of Owens’s 2006 trial, only one witness—a jilted former girlfriend—testified that he had admitted the crime. *Owens*, 346 S.C. at 647.<sup>2</sup>

When weighing this remaining, compromised evidence against Golden’s testimony, moreover, the Court must acknowledge the robust body of scientific evidence that convictions predicated on supposed confessions are suspect. Indeed, false confessions are now understood to be a primary cause of wrongful conviction in the United States. Between 1989 and 2020, 375 people in the United States were exonerated by DNA evidence. *See* The Innocence Project, *DNA Exonerations in the United States (1989 – 2020)*, <https://innocenceproject.org/dna-exonerations->

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<sup>1</sup> Notably, Vance declined even to vouch for his 1999 testimony implicating Owens and was willing to have time added to his sentence of imprisonment rather than repeat his earlier testimony. ROA at 113-1140. Whether or not Vance, like Golden, received an undisclosed plea deal in exchange for his testimony remains an open question.

<sup>2</sup> Once police committed to Golden’s version of the crime, they failed to pursue evidence implicating others. Police arrested two individuals seen in the vicinity of the Speedway on October 1, 1997, immediately following the crime and administered “atomic absorption tests” to determine whether there was gunpowder residue on their hands. 1999 ROA at 2455. But police failed to submit the tests for laboratory analysis and did not do so until January 1999. *Id.* Police explained that, after Golden implicated Owens and he was arrested, “we weren’t in any rush to send” the tests for analysis. *Id.* When the tests were finally run, they showed that one of the men had gunpowder residue on this hand. *Id.*

in-the-united-states. Of those false convictions, 29% involved false confessions. *Id.* Almost half of those defendants who falsely confessed were 21 years old or younger at the time, like Owens. *Id.* False confessions are particularly prevalent in homicide offenses involving young suspects, like Owens’s case. *See Exonerations by Contributing Factor and Type of Crime*, Nat’l Registry of Exonerations (last visited September 19, 2024), available at <https://tinyurl.com/y5nc4a4v>. Other risk factors present here—such as youth, cognitive disability, and the “situational” circumstances of the interrogation itself—also lead innocent people to implicate themselves. *See generally* Saul M. Kassin, et al., *Police-Induced Confessions: Risk Factors and Recommendations*, 34 *Law and Human Behavior* 3 (2009) (the American Psychological Association’s “white paper” on false confessions) available at <https://tinyurl.com/hj7dzynt>.

The key point is that only yesterday, Owens’s co-defendant—the only eyewitness to the crime—attested that Owens was not present when Irene Graves was killed. Seeking to execute Owens before any court hears this compelling evidence of his innocence, the State relies on uncorroborated and unreliable statements allegedly made to people who benefited from their testimony against Owens. This Court has the power and the responsibility to ensure that the State of South Carolina does not kill one of its citizens for a crime he did not commit. It should grant Owens’s motion for reconsideration and stay Owens’s execution to allow a court to hear the new evidence of his innocence.

Respectfully submitted on this, the 19th day of September, 2024,

*s/ Gerald W. King, Jr.*

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