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Feb 12 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA IN
THE COURT OF APPEALS

Appeal from Horry County
The Honorable William Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FANOTTI N. NEAL,

APPELLANT

Appellate Case No. 2023-001791

MOTION TO SUBMIT AMENDED DESIGNATION OF MATTER AND
AMENDED RECORD ON APPEAL

Pursuant to Rule 240, SCACR, the undersigned counsel respectfully files this motion for leave to submit an Amended Designation of Matter to the Initial Brief of Respondent and an Amended Record on Appeal filed in the above titled case on appeal. In support of this petition, counsel presents the following facts.

1.) The Initial Brief of Respondent and Designation of Matter to be included in the Record on Appeal were filed with this Court on December 3, 2024.

2.) The undersigned counsel has recently discovered that several pages from the Transcript that were cited in the Initial Brief of Respondent were not included on the Designation of Matter.

The Amended Designation of Matter and Attachment 1 (proposed additional pages to Record on Appeal) is attached to this petition. Opposing Counsel has graciously consented to this Motion.

WHEREFORE, the undersigned counsel respectfully requests that this Court grant the motion to submit the attached Amended Designation of Matter and Amended Record on Appeal filed in the case.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

KAYLEE C. KEMP
Assistant Attorney General
S.C. Bar No: 107073

By: 
KAYLEE C. KEMP

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February 12, 2025

Attachment 1
(proposed additional pages to Amended
Record on Appeal)

1 **A** Yes, ma'am.

2 **Q** Is that the missing hub cap?

3 **A** Yes, ma'am.

4 **Q** Okay. Let me ask you something, Ms. Floyd: Were
5 you driving that car into this apartment complex ---

6 **A** No, ma'am.

7 **Q** --- on May 29, 2022, at 5:38 in the morning?

8 **A** No, ma'am.

9 **Q** You were not driving your car?

10 **A** No, ma'am.

11 **Q** Were you in this car?

12 **A** No, ma'am.

13 **Q** Had you given anybody permission to drive this car
14 to Conway at 5:30 in the morning?

15 **A** Not that late, no, ma'am.

16 **Q** So this car was in Conway without your permission?

17 **A** Yes, ma'am.

18 **Q** Did you even know it was in Conway?

19 **A** No, ma'am.

20 MS. LIVESAY: Can you hit play? And if you don't
21 mind, just fast forward to when the car is leaving. Oh,
22 actually, I apologize. Could you take us to where the car
23 parks and everybody gets out.

24 BY MS. LIVESAY:

25 **Q** You say your sister's name is Charrel?

1 the search warrant was served at.

2 Q Okay. And what's this now showing?

3 A That would be the entrance door.

4 That is the living room area.

5 Same. Living room area.

6 Living room.

7 That's the nightstand to the right of the entrance
8 door where a tan-in-color GLOCK 19X was recovered, as you
9 can see in the photo there.

10 And that's the tan-in-color GLOCK 19X with a
11 25-round magazine.

12 Living room.

13 Same living room.

14 That's the kitchen area straight across from the
15 entrance.

16 That would be just the secondary room there with the
17 laundry room.

18 That is the living room facing into the first
19 bedroom to the right behind the TV.

20 That is the inside of that room, Bedroom 1.

21 That's the backpack that we recovered a GLOCK 19
22 black-in-color and 32 live rounds and a magazine loader.

23 That's the photo of the actual recovered item.

24 Again, same.

25 That's the serial number to the GLOCK 19 that was

1 recovered from the backpack.

2 That is the room right beside the bedroom to the
3 right. So it would be the second bedroom on the right
4 side of the mobile home.

5 Same room. And you can see in the bottom, there's a
6 black-in-color Nike sweatshirt on top of the boxes right
7 behind the door.

8 That's the sweatshirt, yes, sir.

9 These are the blue jeans. One pair was recovered
10 from there. It's in the same room as the sweatshirt. It
11 was just recovered to the left. So right to the right of
12 that entrance door.

13 There's the jeans that were recovered.

14 That's just a picture of just loose ammunition and
15 other items inside that room.

16 That's a picture of Micah Pressley's West Florence
17 High School ID card inside the same room.

18 That's Mr. Pressley's ID card.

19 MR. HARRELSON: Court's indulgence.

20 BY MR. HARRELSON:

21 Q I want to show you what's been marked as State's
22 Exhibit 17. Are you familiar with this?

23 A I am.

24 Q And what is this?

25 A That was the black-in-color Nike hoodie that we

1 **A** Correct.

2 **Q** Okay. And were any of them Micah Pressley or
3 Fanotti Neal?

4 **A** No.

5 **Q** And were the guns out in the open?

6 **A** One was out in the open. The other one was
7 concealed in a backpack in a bedroom.

8 **Q** Okay. Concealed in a backpack. But was it locked
9 up?

10 **A** No.

11 **Q** Were either guns locked up?

12 **A** No.

13 **Q** And there were three people running -- not running,
14 three people in the house that exited the house; is that
15 correct? At least three the day that you did the search
16 warrant or that Florence assisted in the search warrant?

17 **A** Correct.

18 **Q** Okay. And any three of them had access to the guns?

19 **A** Correct.

20 **Q** And you don't know how many people were in the house
21 touching the guns between the time of the murder and the
22 time you recovered the guns; correct?

23 **A** That's correct.

24 **Q** Okay. And if the guns were sent to SLED at that
25 point, two days later, after having multiple people

1 around -- one of them is laying clearly in the living
2 room; right?

3 A Right.

4 Q Right there by the TV, by the little game station;
5 correct?

6 A Yes, ma'am.

7 Q Okay. So you don't know how many people touched the
8 guns between the time the murder happened and two days
9 later when all these people are in the house?

10 A Correct.

11 Q But they were available to be touched by anybody;
12 correct?

13 A Yes, ma'am.

14 Q Okay. And if you had collected DNA or fingerprints,
15 wouldn't it just show the last person that touched it?

16 A Potentially.

17 Q Okay. And so there was no way to know by DNA
18 anything other than the last person that touched it?

19 A Correct.

20 Q Certainly that wouldn't be deemable after two days
21 in a house full of people, we couldn't just pin it on
22 whoever the DNA came back to, could we?

23 A It wouldn't be of investigative value, no.

24 Q Because it wouldn't be who actually fired the gun,
25 would it? It would be whoever touched it last?

1 it from when they walk up. Okay. Thank you.

2 I'm going to tell you when to pause it, if you don't
3 mind. I know what I have got a question on.

4 A Okay.

5 (Video plays.)

6 BY MS. LIVESAY:

7 Q Pause. Is this Fanotti here?

8 A Yes, ma'am, it is.

9 Q And he told you that was him; right?

10 A Correct.

11 Q What's in his waistband? Can you see?

12 A Something light colored.

13 Q Something what?

14 A Something light colored, tan color.

15 Q And is it black?

16 A No.

17 Q Does it appear to match this color right here?

18 A Closely resembles that.

19 MR. WILSON: Your Honor, this is ridiculous. The
20 solicitor is -- the jury is very capable of deciding what
21 they see on this video, and for him to tell them what he
22 thinks they should see is improper. And the solicitor
23 knows that's improper.

24 THE COURT: She can rephrase the question, but I'm
25 going to let her go.

1 BY MS. LIVESAY:

2 Q So is there anything about this that makes you want
3 to think now that one of the guns inside the house were
4 used?

5 A No, ma'am.

6 Q Have a seat, if you don't mind.

7 A Yes, ma'am.

8 Q Now, Mr. Wilson asked you about blood spatter.

9 A He did.

10 Q Do you remember that?

11 A Yes, ma'am.

12 Q Okay. And do you remember seeing the coffee table
13 there in the house that he was laying in front of?

14 A Yes, ma'am.

15 Q Okay. And did it have sprinkles of blood spatter
16 all over it?

17 A No.

18 Q So this idea that, if the person was in close range,
19 there would be blood spatter all over the gun -- there
20 wasn't any on the coffee table; correct?

21 A No. I believe all the spatter was located on the
22 back wall behind the deceased and on the blinds that was
23 behind the deceased.

24 Q But you didn't see blood just sprinkled all over
25 that coffee table right in front of the young man?

1 **A** No, ma'am.

2 **Q** So this idea that the shooter would have had blood
3 on his gun from the victim, is there any reason to believe
4 that?

5 **A** There wasn't any evidence to show that, I believe.

6 **Q** Now, Mr. Rigney asked you about GSR.

7 **A** Yes, ma'am.

8 **Q** And do you know how fast you have to collect GSR off
9 a suspect's hands for SLED to even test it?

10 **A** It has to be immediate.

11 **Q** Okay. And so when you came in contact with Fanotti
12 Neal about 5:00 that afternoon and he had already changed
13 clothes, already got rid of the bookbag, was there any
14 reason to swab his hands for GSR?

15 **A** No, there was contradicting evidence to show that it
16 would be appropriate.

17 **Q** And would SLED have even tested it if you did?

18 **A** No.

19 **Q** Okay. And Micah Pressley was apprehended later on,
20 not even the same day; correct?

21 **A** Yeah, it was a couple of days later.

22 **Q** Just was he apprehended later on?

23 **A** He was not apprehended that day.

24 **Q** Not that day. After that day?

25 **A** Correct.

Respectively submitted this 12th day of February, 2025,

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

KAYLEE C. KEMP
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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion to Submit Amended Designation of Matter and Amended Record on Appeal pages have been served upon David E. Rigby, Esquire at dave@rigneylawfirm.us on February 12, 2025.

I further certify that all parties required by Rule to be served have been served.

This is the 12th day of February 2025

s/Kaylee C. Kemp
Kaylee C. Kemp
Assistant Attorney General
ATTORNEY FOR RESPONDENT

Brandy Rankin

From: Brandy Rankin
Sent: Wednesday, February 12, 2025 1:13 PM
To: dave@rigneylawfirm.us
Cc: Kaylee Kemp
Subject: Motion to Submit Amended Designation of Matter and Amended Record on Appeal
Attachments: SIGNED Motion to Submit Amended Designation of Matter and Amended Record on Appeal - Neal.pdf

Dear Mr. Rigney,

Thank you for your consent to file this Motion to Amend the Designation of Matter and Amended Record on Appeal. We spoke with Tonisha of the Court of Appeals, and she indicated that the turnaround for an Amended Record on Appeal is normally around thirty (30) days. Additionally, she informed us that there would be an order with due date and if by chance the order lacked a due date that her cover letter would provide it. We thought it might be helpful to have the exact pages we propose adding, so we have them as an attachment to our motion. Tonisha was unsure if the Court would want this or not but believed if it was not needed or wanted that the Court would not use.

We will file these documents shortly, today, February 12, 2025, with the South Carolina Court of Appeals.

Many thanks,

Brandy Rankin

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s/Kaylee C. Kemp

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Assistant Attorney General

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