

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

CASE FILE: 18616-1

PLAINTIFF

INDICTMENT(S): 2003-GS-22-01030, 1031

WARRANT(S): H248669, H248670

vs.

ORDER DENYING DEFENDANT'S
APPLICATION FOR POST CONVICTION
DNA TESTING

JODY LYNN WARD

DEFENDANT

FILED
GEORGETOWN COUNTY, S.C.
2025 JUL 15 PM 12:10
ALMA W. WHITE
CLERK OF COURT

This matter comes before the Court on the Defendant's application for post-conviction DNA testing, filed January 2, 2018, as well as numerous amendments and supplements to that motion, including those filed on June 15, 2023, and April 8, 2024. Having considered the application, the State's written responses (filed on March 28, 2018 and October 28, 2022), the record in this matter, and the applicable law, the Court finds that the Defendant has failed to satisfy the statutory requirements for post-conviction DNA testing as set forth in South Carolina's Access to Justice Post-Conviction DNA Testing Act, codified at S.C. Code Ann. § 17-28-10, et seq.

FACTUAL SUMMARY

Defendant was convicted in the shooting deaths of Elton Rutledge, Jr. and Wilfred Brown, which occurred on or about August 3, 2002. Testimony at trial indicated that the victims were killed and initially buried in one location in Georgetown County and that, later, Defendant returned to that location, gathered the decomposed remains in a bag and moved them to a second location. The partial skeletonized remains of the victims were discovered on September 13, 2002, and were

found co-mingled in a sack or bag, along with a pair of white Adidas sneakers, socks, and a pair of boxer shorts.

Forensic Pathologist Dr. Kimberly Collins testified at trial that she received a bag within a bag containing skeletonized remains, white Adidas sneakers, socks and boxer shorts. *Trial transcript* at 462. There was very little tissue left on the bones. Dr. Collins was able to tell that the remains were from two different individuals because duplicate bones were recovered, including duplicate mandibles and right collar bones. There was not a complete skeleton of either victim. *Id.* at 464-465. Dr. Collins was able to identify the partial remains of Wilfred Brown based on dental records. She was not able to identify the second victim. *Id.* at 460-470.

Victim Elton Rutledge, Jr.'s identity was established by circumstantial evidence, including testimony that the Adidas sneakers belonged to Rutledge, "pattern of life" testimony establishing that Brown and Rutledge were together the last night they were seen alive, testimony of inculpatory statements made by Defendant to others regarding Rutledge's identity and that there was more than one victim, and Defendant's own statement to law enforcement.

LAW AND ANALYSIS

Pursuant to S.C. Code Ann. § 17-28-40(C), an application for post-conviction DNA testing must, under penalty of perjury:

- (1) Identify the proceedings in which the applicant was convicted or adjudicated;
- (2) Give the date of the entry of the judgment and sentence and identify the applicant's current place of incarceration;
- (3) Identify all previous or ongoing proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or adjudication;
- (4) Make a reasonable attempt to identify the physical evidence or biological material that should be tested and the specific type of DNA testing that is sought;

(5) Explain why the identity of the applicant was or should have been a significant issue during the original court proceedings, notwithstanding the fact that the applicant may have pled guilty or nolo contendere or made or is alleged to have made an incriminating statement or admission as to identity;

(6) Explain why the physical evidence or biological material sought to be tested was not previously subjected to DNA testing, or if the physical evidence or biological material sought to be tested was previously subjected to DNA testing, provide the results of the testing and explain how the requested DNA test would provide a substantially more probative result;

(7) Explain why, if the DNA testing produces exculpatory results, the testing will constitute new evidence that will probably change the result of the applicant's conviction or adjudication if a new trial is granted and is not merely cumulative or impeaching; and

(8) Provide that the application is made to demonstrate innocence and not solely to delay the execution of a sentence or the administration of justice.

S.C. Code Ann. § 17-28-40(C).

While S.C. Code Ann. § 17-28-50(C) provides that the court “shall take account of substance, regardless of defect in form,” the Court finds Defendant’s application both facially and substantively deficient. Taking each requirement in turn, Defendant properly indicated the proceedings during which he was convicted, thus satisfying the first requirement. He, likewise, satisfies the second requirement as he properly recited his date of conviction and place of incarceration. As to the remaining requirements, however, the Court finds that Defendant has fallen well short of his burden.

Defendant failed to “identify all previous or ongoing proceedings, together with the grounds therein asserted,” thus falling short of the third requirement. *S.C. Code Ann. §17-28-40(C)(3)*. The Court, however, will forgive this deficiency as it can take judicial notice of the voluminous record in this matter. Defendant partially satisfies the fourth requirement as he adequately identified the evidence he wants tested. Specifically, in his filings of January 2, 2018 and April 8, 2024, he listed a total of four items – a pair of Adidas shoes recovered with the bones, “the bones that was alleged

to come out of [the Adidas shoes]¹”, a pair of Nike sneakers, and “all bones collected.” Defendant fails, however, to adequately identify the specific type of DNA testing he seeks, a requirement that is essential to his motion. This deficiency is not one that can be forgiven.

Most importantly, however, Defendant fails to satisfy the fifth requirement – namely, an explanation as to why his identity “was or should have been a significant issue” at trial. *S.C. Code Ann. §17-28-40(C)(5)*. Defendant’s entire point of having DNA testing performed seems to be questioning the identity of one of the victims, not his own identification as the killer. A review of the trial transcript shows overwhelming evidence of Defendant’s guilt, to include his confession to several lay witnesses, the fact that he asked an individual to purchase bullets for him, testimony that he was often seen with a gun of the same caliber as the gun used to kill the victims, as well as inconsistencies in his statement to law enforcement.

Defendant does not even attempt to satisfy the sixth requirement as he completely fails to address any of the required issues – whether any of the items he seeks to have tested were previously tested, if they were not, why not, nor why “the requested DNA test would provide a substantially more probative result.” *S.C. Code Ann. §17-28-40(C)(6)*. As with the fourth requirement, this requirement is central to his request and a failure to satisfy it cannot be overlooked. Turning first to victim Rutledge’s mandible, Defendant fails to mention that trial testimony of South Carolina Law Enforcement Division Senior Agent Steve Lambert indicated that he was not able to develop a DNA profile from that bone. Nor does he mention that, prior to trial, he was provided with the results of mitochondrial DNA testing done on that mandible that showed it was consistent with the DNA profile of victim Rutledge’s mother. Defendant does not explain why any further DNA testing would produce any result, much less a more probative one. As to the Adidas and Nike sneakers, Defendant

¹ There was no testimony at trial that any bones were found “inside” the Adidas sneakers. Rather, the sneakers were found in the same bag as the bones of both victims.

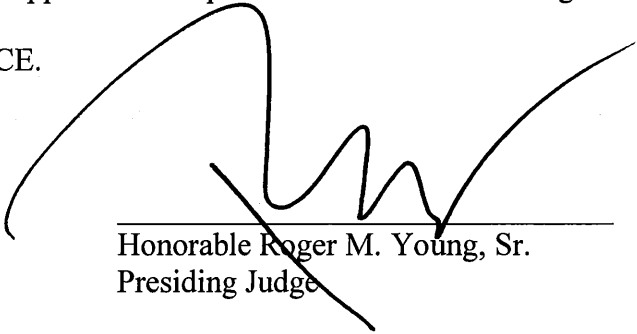
does not advance any argument as to how DNA testing of these items would be probative of his guilt or innocence.

As to the remaining requirements, the Court finds that the application fails to establish that any exculpatory result from DNA testing would constitute new, non-cumulative evidence that would probably result in a different outcome if a new trial were granted. The proposed testing appears aimed at impeaching prior testimony identifying the Adidas sneakers as belonging to Rutledge, rather than producing affirmative evidence of Defendant's innocence. Such use does not satisfy the requirements of S.C. Code Ann. § 17-28-40(C), which expressly prohibit the use of DNA testing solely to delay sentencing or for impeachment purposes.

Accordingly, the Court finds that Defendant has failed to meet the statutory burden for post-conviction DNA testing under S.C. Code Ann. § 17-28-40(C). No evidentiary hearing is warranted and no relief is appropriate.

WHEREFORE, Defendant's application for post-conviction DNA testing is hereby DENIED and DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.



Honorable Roger M. Young, Sr.
Presiding Judge

Dated: 7/7/25
Chamber, SC