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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
INDICTMENT NOS.: 02-GS-34-1918
COUNTY OF MARLBORO) 02-GS-34-1919

RECEIVED

Oct 13 2025

THE STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,)
)
-VS-)
)
WELDON W. STEWART, JR.,)
)
DEFENDANT.)
_____)

S.C. SUPREME COURT
TRANSCRIPT OF RECORD

June 26, 2003
Darlington, S. C.

B E F O R E:

HONORABLE JOHN M. MILLING, Judge.

A P P E A R A N C E S:

DANIEL L. BLAKE, ESQUIRE
Assistant Solicitor, Fourth Judicial Circuit
Attorney for the State

WELDON STEWART, JR., DEFENDANT
PRO SE

AND

WADE R. CROW, JR., ESQUIRE
STANDBY COUNSEL
Public Defender for Marlboro County

LINDA W. MCCALL
OFFICIAL REPORTER

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EXHIBITS

NONE

1

2

1 understanding, Mr. Blake?

2 MR. BLAKE: Yes, Your Honor. Talking to the legal
3 department at the South Carolina Department of Corrections, they
4 will not allow for witness interviews by someone who is in safe-
5 keeping.

6 THE COURT: Alright. Trial date on this is when?

7 MR. BLAKE: July 28th.

8 Now, I have spoken to - - or at least communicated with Earl
9 Hood at the Marlboro County Detention Center and, you know, it
10 seems like a good solution to this problem is having Mr. Stewart
11 taken back to the Detention Center now.

12 RULING - TRANSFERRING DEFENDANT TO MARLBORO COUNTY

13 THE COURT: Yeah, we are within thirty days of trial. So
14 I would ask that you prepare an appropriate order to have him
15 transferred from the Department of Corrections facilities back to
16 Marlboro County Detention Center facility so that his ability to
17 communicate with individuals will be enhanced by his being in a
18 smaller facility that doesn't have quite the restraints that the
19 other facility has.

20 MR. BLAKE: And I think in that regard that the list of
21 witnesses, while probably helpful logistically for the Warden, is
22 not the same kind of strict requirement that it was at SCDC.

23 THE COURT: Alright. That resolves that issue.

24 Now, you also indicated to me that you felt that Mr. Stewart
25 had some other issues that he wanted to bring to the Court. You

1 requested that this hearing be arranged for today's date so
2 whatever that was could be handled.

3 MR. BLAKE: Thank you, Your Honor.

4 Mr. Stewart has a number of written motions that he has
5 presented to me, I believe it was last week, that he would like to
6 go forward on.

7 THE COURT: Alright. Very good.

8 Mr. Stewart, before we begin discussing each of your motions,
9 how many motions do you have?

10 MR. STEWART: I have five, sir.

11 THE COURT: Do you have a copy that I could follow along
12 with and look at your motions so that I know what's going on when
13 you're making the motions?

14 MR. STEWART: Yes, sir.

15 THE COURT: Alright. If you'd just hand it to Mr. Crow so
16 that he can bring it up so I can take a look at it.

17 (Mr. Crow hands copy listing motions to the Court.)

18 MOTION FOR FUNDS FOR WITNESS SUBPOENAS

19 THE COURT: Thank you.

20 Alright. The first request is a movement - - is a motion by -
21 - and I'm just going to go through them sort of as I have them in
22 front of me, Mr. Stewart - - is your motion to pay for funds to pay
23 for the service of subpoenas to defense witnesses.

24 In looking at Rule 13 of the South Carolina Rules of Criminal
25 Procedure, whereas there is a fee required and the payment of

RULING OF THE COURT

7

1 mileage and \$25 and such things as that in the civil side, I don't
2 see any requirement for money on the criminal side.

3 Mr. Blake, are you aware?

4 MR. BLAKE: No, Your Honor, and many witnesses bear witness
5 to the fact that we don't pay.

6 Certainly having Mr. Stewart at the Marlboro County Detention
7 Center would make things much easier, and the Solicitor's Office,
8 if need be, is certainly willing to cooperate and assist in any way
9 to get those subpoenas served. The Sheriff's Office is, obviously,
10 the agency that does that.

11 RULING OF THE COURT

12 THE COURT: So there won't be any money for the Sheriff to
13 serve your subpoenas, and the State says that if you need some
14 assistance in filling out those subpoena forms, they will assist
15 you in doing that but if you just want a group of subpoena forms,
16 ah, since Mr. Crow's standby counsel, I'll let him work with you on
17 getting the subpoena forms prepared, and then he can get them to
18 the Sheriff's Department for service.

19 Any problem with that?

20 MR. CROW: Your Honor, I will - - I will prepare the
21 subpoena forms for him, and I will deliver them to the Sheriff's
22 Department, and they make no charge to the Public Defender's Office
23 for serving.

24 They're a little slow about serving them but I'll - - I'll
25 give them to Sheriff's Department. I'm sure they might give them

1 to the City but we'll get the subpoenas prepared and signed.

2 THE COURT: You need to get that information as to who you
3 wish to have subpoenaed to Mr. Crow as soon as you can, Mr.
4 Stewart, so that he can get those subpoenas prepared and start the
5 process. Since we know it's going to be on July 28th, he can go
6 ahead and start the process of getting the subpoenas prepared and
7 served as soon as you get him the names.

8 MR. STEWART: Sir, the only problem with that is that I do
9 have some out-of-state witnesses, one being from Connecticut, the
10 other from North Carolina.

11 THE COURT: Well, the problem that you have there is this
12 Court in South Carolina does not have jurisdiction over somebody in
13 another state. So a normal subpoena is not going to work to make
14 somebody from Connecticut come back to South Carolina.

15 Um, I'm trying to remember. There may be a - - -

16 MR. BLAKE: There is a quite complicated procedure, Your
17 Honor, that requires filing an Affidavit, going before the judge up
18 there but - - -

19 THE COURT: Do you have to go before the judge in - - and
20 he has to bring the person before him and make a determination as
21 to whether it's proper to issue a requirement that that person come
22 from out-of-state to another state?

23 MR. BLAKE: What we often do is mail or fax that subpoena
24 to the law enforcement officer, say, in Maryland, and, of course,
25 they will serve it. It's voluntary whether that person comes or

1 not but that's often how we get witnesses here from out of the
2 area, and I would assume that these are for Mr. Stewart. I mean,
3 they are - - -

4 MR. STEWART: These are defense witnesses who have no problem
5 with coming to testify. The only thing that to be relieved from
6 their jobs, they would need subpoenas to say that they have to come
7 to court.

8 MR. BLAKE: Well, I'm sure Mr. Crow and his large office
9 staff will be able to coordinate that.

10 MR. CROW: If I may, Your Honor, I've had this problem to
11 come up before, and it's most difficult, and we get a subpoena, a
12 normal subpoena, and we present it to the District Court or the
13 Superior Court of North Carolina, and the Clerk up there has to
14 serve a Rule to Show Cause and bring the person in and then,
15 usually, the District Judge will direct the person to honor the
16 subpoena but it's a process that takes ten days to two weeks.

17 I think - - I think he's saying they will come if they have a
18 subpoena. We will prepare whatever subpoenas he needs using a
19 regular subpoena and have our Clerk of Court sign it and put a seal
20 on it, and, hopefully, that will work.

21 THE COURT: Alright.

22 MR. CROW: If he just wants someone to be relieved from a
23 job - - -

24 THE COURT: It may be - - it sounds like what you're doing
25 is you're trying to get some documentation so that the person won't

1 get fired for coming to court.

2 MR. STEWART: Yes, sir.

3 THE COURT: Alright. Well, Mr. Crow can - - as soon as
4 you give him those names, he'll work on getting that done but that
5 person will have to, of course, go to their employer and say, "I
6 have this subpoena to appear in court."

7 And if the employer goes along with a South Carolina issued
8 subpoena, you won't have any problems but if the employer says, "I
9 don't care. I'm not going - - I'm not going to have you honor a
10 South Carolina subpoena", then Mr. Crow may have to go through that
11 more complicated process that take some period of time. So,
12 particularly, as to anybody out-of-state, you're going to have to
13 get him that information as quickly as you can.

14 You know, if you've got names and addresses of those people,
15 give it to him today so he can go ahead and begin that process.

16 THE COURT: I think I do. If not, I can get it.

17 MR. STEWART: I think he already has that information from
18 the last time that we spoke.

19 MOTION FOR PROFESSIONAL COPIES OF CRIME SCENE PHOTOGRAPHS

20 THE COURT: Alright. Very good.

21 Alright. That takes care of a, um, that motion.

22 What is the - - when you have been provided with copies of
23 crime scene photographs, are these just, ah, photostatic copies or
24 do you have actual glossy copies like a duplicate copy of the crime
25 scene photograph? And what I'm looking at now is your motion for

1 professional copies of the crime scene photographs. What have you
2 actually gotten?

3 MR. STEWART: I have - - I have copies of the photographs
4 with me, sir.

5 THE COURT: Alright.

6 MR. BLAKE: They are - - they are photocopies, Your Honor,
7 and the State has, upon receipt of this motion, spent about \$90,
8 something like that, for getting copies. I'm still getting this
9 together from the various agencies, and we certainly agree to
10 provide Mr. Stewart with those.

11 THE COURT: Do you have any at this time?

12 MR. BLAKE: We do, Your Honor. I would prefer to - - I
13 mean, I can show them to the Court but we would prefer to get them
14 a little more organized because we're getting - - I want to make
15 sure that it's complete.

16 And I do have a question in that regard. I have been in
17 contact with MUSC pathology. They do have slides from the
18 autopsy, and I guess I wanted a ruling from the Court whether we
19 should get a copy of those for Mr. Stewart also.

20 RULING OF THE COURT

21 THE COURT: MUSC has the ability to take its slides and
22 turn them into 8 1/2 by 11 type photographs. So, yes, I would
23 think that that would be the way is to have them converted to
24 photographs and provided as well.

25 MR. BLAKE: And can we make a motion for Indigent Defense

1 to be paying for the cost of these photographs?

2 THE COURT: I have no problems about Indigent Defense
3 paying for that. If you'll fix me up a little order that
4 provides for that, and if you could if you - - put in that order
5 that this be provided to him by July 10th so that any outstanding
6 agencies will know that they need to go ahead and get it in.

7 MOTION FOR PSYCHIATRIST & ADMISSION OF EVIDENCE

8 THE COURT: Alright. I am looking at a motion to obtain
9 a psychiatrist.

10 Alright. The alleged incident date is when? When is this
11 crime suppose to have occurred?

12 MR. BLAKE: December 6, 2000.

13 THE COURT: And you are asking for a psychiatrist for what
14 purpose - - a psychiatric evaluation for what purpose?

15 MR. STEWART: The State is trying to introduce evidence, ah,
16 it is my understanding that the State is trying to introduce
17 evidence of desecration of the victim's body at my trial, and I
18 feel this evidence is irrelevant, and if any relevance can be shown
19 for this evidence, I feel the probative value would substantially
20 outweigh the danger that this evidence will create an unfair
21 prejudice at my trial.

22 However, should the Court rule otherwise, then being that the
23 desecration of the victim's body was approximately eight hours
24 after her death, then my mental state at the time of this other
25 crime, desecration of human remains, as well as things that put me

1 in that mental state, I think these will be a relevant issue.

2 THE COURT: Such as what?

3 MR. STEWART: Ah - - I'm not - - -

4 THE COURT: What do you think the psychiatrist is going to
5 say about your mental condition?

6 MR. STEWART: Well, sir, the reason that I would want a
7 psychiatrist is to give expert testimony as to how an individual's
8 past, the environment and circumstances surrounding a situation,
9 things of that nature, affects - - tends to affect the way that an
10 individual will react to certain situations, and once I provide the
11 psychiatrist with information as to my past, the circumstances
12 surrounding the two incidents, the things that occurred during the
13 eight hours between the victim's death and the desecration, ah, for
14 the psychiatrist to give their opinion.

15 THE COURT: Alright. The desecration is a crime to which
16 you have already pled guilty.

17 MR. STEWART: Yes, sir.

18 THE COURT: Your mental status as to whether or not you
19 were competent or incompetent at the time you committed that crime
20 I do not find to be an issue to another crime committed earlier.

21 Whether or not the trial judge allows that evidence to come in
22 will have to be something that he'll have to deal with or she will
23 have to deal with.

24 Who is the trial judge?

25 MR. BLAKE: Judge Burch.

1 RULING OF THE COURT

2 THE COURT: Judge Burch will have to deal with, um, but I
3 am going to deny your request for psychiatric evaluation.

4 MR. BLAKE: And, Your Honor, for the record the Blair
5 hearing was held on June 24, 2002, in front of Judge Lockemy. Mr.
6 Stewart had the evaluation handled at the State Hospital, and he
7 also had an independent evaluation by Dr. Clayton. I'm passing
8 both of these documents up so Your Honor can see them.

9 So he's actually - - the State's already paid for an
10 independent psychiatric evaluation.

11 THE COURT: Alright. Very good but as to that motion - -
12 let me - - Mrs. Hyatt, if you'll return this to Mr. Blake. As to
13 that motion, I am denying your request for additional psychiatric
14 evaluation.

15 Mr. - - does anybody know where Judge Burch is going to be
16 holding court over the next several weeks?

17 MR. BLAKE: I know on the 14th he'll be in Chesterfield.
18 I do not know about the 7th. This week he's in Lancaster.

19 THE COURT: Alright. The 14th he's in Chesterfield. The
20 21st - - don't know where he is.

21 CLERK OF COURT: I'll check that for you, Judge.

22 MR. BLAKE: Your Honor, may I address the Court for a
23 moment?

24 THE COURT: Yes.

25 MR. BLAKE: We have had a number of different motions

1 hearings in this case. As you know, the Court Reporters have
2 transcribed all of them. We're missing one but that should be to
3 us soon.

4 Back in November, Judge Lockemy said that the end of motions
5 would be in December. Now, I think that was probably contingent
6 upon a trial in January but the State would certainly like to have
7 some idea of when the onslaught of motion will kind of stop here.

8 Obviously, we will have motions during the trial, prior to
9 trial.

10 MR. STEWART: Sir, if I may comment on that.

11 THE COURT: Yes, sir.

12 MR. STEWART: As far as the motion hearing that we are
13 having, I am representing myself, and I am currently incarcerated,
14 and while I realize that I deserve no special treatment for that,
15 I think that that is something that the Court should take into
16 consideration. There are certain things that need to be arranged
17 for the preparation of my defense that I cannot do on my own.

18 The only thing - - the only the way the provisions will be
19 made is through the Court, sir, and that - - that is mainly the
20 reason that we have had so many motion hearings.

21 CLERK OF COURT: Okay. He's going to have Common Pleas Non
22 Jury/Fourth Circuit. That's 7/7. 7/14 he's going to have
23 Genesal Sessions in Chesterfield. On 7/21 he's got General
24 Sessions in York County, and 7/28 he has General Sessions in
25 Marlboro County, Judge.

1 THE COURT: With respect to the issue about the, ah,
2 relevance of the desecration plea, the evidence of that particular
3 crime, this plea as to that as to whether or not it's relevant and
4 as to whether or not its prejudicial affect will outweigh its
5 probative value is something that the trial judge is going to be
6 the one to really need to make a decision on.

7 Um, I would ask that you contact Judge Burch since he's going
8 to be close by during the week of the 14th and put him on notice
9 that that is a motion that is outstanding and see whether he wants
10 to treat that as something to be disposed of during the week of the
11 14th or whether he wants to wait and dispose of it during a trial
12 setting as things will be introduced but he at least needs to be
13 put on notice that is something he's going to have to deal with so
14 that he can have the choice of whether he wants to deal with it
15 during the week of the 28th.

16 That issue will be brought forward to the trial judge. So I'm
17 just going to defer a ruling on that, Mr. Stewart, because I think
18 the one who is trying the case, and he's the one who's going to be
19 in the pits, so to speak, along with you and the State as the
20 testimony is being presented is going to be in a better position to
21 determine whether or not that is or is not something that they feel
22 needs - - that he feels needs to be presented to the jury.

23 MOTION TO PRODUCE COLLECTED STANDARDS - HANDWRITING

24 THE COURT: Tell me about how the handwriting sample is a
25 part of this case, Mr. Blake.

1 MR. BLAKE: Certainly, Your Honor.

2 There were a number of letters allegedly written by Mr.
3 Stewart to members of law enforcement and the victim's family. We
4 took those letters and had them analyzed by SLED for his
5 handwriting and, also, had them submitted for finger prints, and I
6 believe Mr. Stewart's contention is that he did not write those
7 letters.

8 There is a separate legal issue. In one of those letters he,
9 essentially, writes a little story which might be viewed as a
10 confession, and the State intends to admit it as such. I think Mr.
11 Stewart is - - -

12 THE COURT: Does he have a copy of those letters?

13 MR. BLAKE: Absolutely.

14 THE COURT: There's also something in here where he is
15 saying that, ah, he wants to see copies of the three pages of quote
16 "collected standards". Does he have copies of those pages?

17 MR. BLAKE: He has - - they are in the papers that were
18 submitted. His letter sent to us that we then copied and gave back
19 to him but we certainly could, also, have SLED mail us a copy of
20 those standards. They come out of the pile of letters that he
21 wrote that he has a copy of.

22 THE COURT: Alright. Well, if he says they are being used
23 as - - if the State contends that they are standards, that they
24 are, in fact, written by him as known handwriting by him, then I do
25 think it is proper that he have a copy of what he is alleged to

1 have written, and you, Mr. Stewart, contend that, at least at this
2 point in time, with respect to that letter, are you contending
3 that's not written by you?

4 MR. STEWART: Sir, the only thing that I haven't - - I
5 haven't really addressed that, the issue of the letters or
6 anything. The only thing that I would - - I would - - the only
7 issue that I am addressing as far as this motion is, and I think
8 that included with that motion is the SLED Laboratory Evidence
9 Inventory Sheet, ah, I think that you have a copy of that - - -

10 THE COURT: Yes, sir.

11 MR. STEWART: - - - up there if I'm not mistaken.

12 The thing - - my - - the only issue that I am raising here is
13 that as you can see on this Inventory Sheet the items that are
14 numbered 21 through 24 and beside that section is a place for the
15 description of the evidence. As you can see on this sheet, all of
16 these items, 21 through 24, and the description of the evidence, it
17 gives some type of indication as to the contents of each item but
18 when you get to item #25, there - - there isn't any indication as
19 to what these collected standards are, and I do have 21 through 24
20 but I have no way of knowing if I have the collected standards
21 since, of course, there was no description given of the contents.

22 MR. BLAKE: Your Honor, I'm not sure if Mr. Stewart is
23 missing the second page that has item 25 but I simply do not
24 understand how these papers have not been described. The - - in
25 the description of evidence column it goes on for sometimes three

1 or four lines describing it.

2 We certainly have no problem in getting SLED to give us a copy
3 of that. I'm not sure what the complaint is.

4 MR. STEWART: Sir, as we see, ah, in the description column
5 for items 21 through 24 it does say - - it does describe the - -
6 the document. Some of these are envelopes, and it does tell, "This
7 document begins with this. Ends with that."

8 THE COURT: What is it you say is deficient about 25?

9 MR. STEWART: I don't - - I don't see section 25, my copy of
10 the motion but I do have that here.

11 Section 25 is merely labeled "collected standards submitted as
12 known writings of Weldon W. Stewart, Jr." There is no indication
13 as to what these collected standards.

14 THE COURT: So you want copies of these quote "collected
15 standards" so you can see what they're talking about?

16 MR. STEWART: Yes, sir.

17 RULING OF THE COURT

18 THE COURT: Alright. You can have those.

19 MR. BLAKE: The State would be very happy to provide that,
20 Your Honor.

21 MR. STEWART: And - - and - - and, ah, sir, if I may be
22 allowed to address another thing concerning these.

23 THE COURT: Alright.

24 MR. STEWART: It is my understanding that these collected
25 standards were used by the examiner to supposedly identify other

1 writings as being mine. I have no way of knowing that whatever
2 collected standards that will be disclosed to me are actually the
3 collected standards that were submitted to the department since no
4 description was given of them as was the other items 21 through 24.

5 THE COURT: Well, that's something that you'll have to
6 handle under cross examination of the person who says that they
7 believe it is yours. You can ask them if what you are submitted
8 is the same thing that was submitted to them but I can't - - I
9 can't get in there and go and look and - - and - - you know, the
10 State is, in essence, submitting to you what they say they
11 submitted to their expert, and if they submitted something
12 different to their expert, that will be a wonderful piece of cross
13 examination.

14 Now, if the SLED expert - - is there a report from the SLED
15 expert as to the handwriting analysis?

16 MR. BLAKE: Yes, Your Honor. I believe the defendant has
17 been provided that though.

18 And, Your Honor, I would like to say that this afternoon I'm
19 going to be doing a file review with Detective Gurley to make sure
20 that I have everything that is in her file, and once I have done
21 that then I will be sending a copy of all - - -

22 MOTION FOR HANDWRITING EXPERT

23 THE COURT: Alright. Now, at this particular point in time
24 - - -

25 MR. BLAKE: - - - these papers to Mr. Stewart.

1 THE COURT: - - - Mr. Stewart, they are saying that they've
2 looked at things which are your known handwriting, and based upon
3 that they determined that something else is your handwriting as
4 well. Are you contending that the documents that have been
5 identified by SLED as having been written by you have not been
6 written by you?

7 MR. STEWART: Sir, I'm not prepared to address this issue at
8 this time.

9 THE COURT: Well, I don't know whether to give you a
10 handwriting expert or not unless I know that you are contending
11 that these are not your writings or that they, you know, if they're
12 not your writings, if that's your contention, the handwriting
13 expert might have some validity but if what has been claimed to be
14 your handwriting, written documents by you are, in fact, written by
15 you, then an expert is not going to be necessary if you are saying,
16 "These are my written documents."

17 So, I'm trying to find out before I spend money for the State
18 what your position is. You've asked for a handwriting expert but
19 there's no point in giving you a handwriting expert if the
20 documents were written by you.

21 So what's your problem with the documents? Why do you need
22 a handwriting expert?

23 MR. STEWART: My only problem is with the process of these
24 documents being identified whether or not this process was done
25 correctly. Ah - - -

1 RULING OF THE COURT

2 THE COURT: If there is something about these exemplars or
3 known collected items, get those to him if you would, Mr. Blake, by
4 say, the 7th, so he can go ahead and look at it.

5 But if there is never - - if an issue does not arise as to
6 whether it is or it isn't your handwriting, then I'm not going to
7 call for the State to spend money on an expert for a document that
8 you don't contest as being your handwriting but I will have those
9 items that are identified in #25 as the "collected standards", I
10 will have copies of those given to you.

11 If I do that, ah, you'll have to make a decision later about
12 the question of whether they are your handwriting or not.

13 MR. STEWART: Yes, sir.

14 MOTION FOR FORENSIC PATHOLOGIST

15 THE COURT: Alright. That looks to bring us to a motion
16 to obtain a forensic pathologist.

17 Tell me about your motion to obtain the forensic pathologist.
18 What are you concerned with there?

19 MR. STEWART: Sir, ah, I have the autopsy report that was
20 signed by Dr., excuse me, Dr. Debra Curry, M. D. and Dr. Russell A.
21 Harley, M. D. They did give their opinion as to the cause of
22 death both on the title page, "probable cause of death - blunt
23 force trauma to the head", and on page six they did give their
24 opinion, "blunt force trauma to the head".

25 THE COURT: Alright. You may pass it - - pass it up but

1 I'm accepting as true what you're telling me.

2 (Defendant passes autopsy report to the Court.)

3 THE COURT: Alright. So - - and for what - - what are you
4 wanting your own forensic pathologist for?

5 MR. STEWART: Sir, the problem is that I have this autopsy
6 report. This is all that I can go by. I have the opinion here
7 that says, "blunt force trauma to the head". However, on the
8 indictment for the murder indictment, that being Indictment # 02-
9 GS-34-1919, it also has burning included as a possible cause of
10 death, and when I objected to the terminology of this indictment in
11 an October 17, 2002, hearing held before Judge Burch, the State did
12 indicate that the pathologist, Dr. Harley says that it is a
13 possibility that the victim died as a result of burning.

14 Now, I do not have this - - I do not see this reflected
15 anywhere in the autopsy report.

16 Therefore, I originally made a motion to interview the
17 pathologist during a December 11th, I think it was 2002, hearing
18 held before Judge Lockemy. He granted this motion stating that I
19 do have to interview the pathologist at least 21 days before my
20 trial if I'm not mistaken.

21 Sir, the problem is that the autopsy report says one thing.
22 My indictment says another, and the State has indicated that the
23 pathologist at times has said another thing. So I'm not sure as to
24 the accuracy of the pathologist's opinion. They certainly aren't
25 consistent.

1 Therefore, I am - - -

2 THE COURT: Well, the only opinion that you know at this
3 point in time of the pathologist is what is contained in their
4 report. The State has said something about burning. Where do you
5 get that from, Solicitor?

6 MR. BLAKE: Discussions with the pathologist, Your Honor.

7 THE COURT: So that you're saying that there may be things
8 in the - - that the pathologist is saying that have not been
9 included in the report?

10 MR. BLAKE: No, I think, actually, it's talked here about
11 the primo oxi - - there's a measurement that was done that talks
12 about whether it could have been caused by burning. He certainly
13 has an opportunity to interview the pathologist. The Court has
14 already ordered us to take him down to Charleston to do that. I
15 don't - - really do not know if an independent pathologist could
16 reconstruct this from simply the slides, etc.

17 THE COURT: Well, when there are competing expert opinions,
18 ah, I think the second pathologist pretty much has to do it from
19 the slides, etc. because usually by the time it gets to the latter
20 stage, the body has been buried. So it would either have to be
21 done in that way.

22 MR. BLAKE: And, Your Honor, of course, there's already
23 been two pathologists.

24 MR. STEWART: I - - sir, I - - if I may be allowed to speak?

25 THE COURT: Yes, sir.

1 MR. STEWART: I am a layman to the law, and I have never
2 dealt with a case before but all that I have here everywhere that
3 there was a probable cause of death, the pathologist opinion as to
4 the cause of death says here on the last paragraph of page 6 of the
5 autopsy report, "that in light of the information, gross
6 microscopic and toxicological autopsy findings that it is the
7 opinion of the decedent, Candice Allen, died as a result of blunt
8 force trauma to the head", and listen to what the possibility of
9 the victim dying as a result of burning, I see that nowhere in the
10 autopsy report. So since the pathologists, both Dr. Curry and Dr.
11 Harley, did sign this autopsy report, I would assume all their
12 opinions are included therein.

13 And I will - - this - - it's my understanding that this
14 autopsy was conducted on December 7th at 9:00 a.m., and I haven't
15 received another report or any report of another autopsy being done
16 where they could reach other conclusions or opinions.

17 MR. BLAKE: Your Honor, may I address the Court?

18 THE COURT: Yeah.

19 MR. BLAKE: I believe the issue here is more the
20 indictment. This is something that Mr. Stewart has come back to,
21 now, at least in three or four different motions hearings, and he's
22 very concerned by the language in the indictment which, of course,
23 has already gone through the Grand Jury and has been true-billed.

24 It says, "by striking, pushing and/or burning her". Those are
25 alternative possibilities because Mr. Stewart is the - - was the

1 only one there when it did happen.

2 Um, the State is certainly willing to try to fashion an
3 amendment to the indictment to take out the actual factual
4 predicate or use more general terms. I think this is really what
5 Mr. Stewart is concerned about.

6 THE COURT: I think what he is saying is if you're going to
7 charge him with the possibility of death by burning, ah, or have
8 that as a manner of proof, he's trying to figure out how to defend
9 against it when the autopsy report defines the manner of death as
10 being blunt force trauma.

11 You've indicated that there is some indication in talking with
12 a pathologist that there is some test that was run that indicated -
13 - blood gas or something, I guess - - that burning was a
14 possibility, and so he's looking on how to defend that.

15 I don't know what his defense is. I don't know whether he is
16 saying he wasn't there, whether she died of natural causes or he
17 died of natural causes. I don't know the race of the victim.

18 MR. STEWART: Sir, the defense is not intending any - -
19 anything dealing with this case other than the fact that the
20 defense - - it is the contention of the defense that the victim's
21 death was unintentional. That is the only thing that - - -

22 THE COURT: Alright.

23 MR. STEWART: And, sir, if I may be allowed to speak to an
24 issue - - about an issue that is relevant to this motion?

25 THE COURT: I'm - - I'll - - I'll allow you to speak.

1 MR. STEWART: Ah, on October 17, 2002, the State served upon
2 me an amended indictment for South Carolina Code Section 16-17-600,
3 destruction, desecration or removal of human remains.

4 Let me pass this up.

5 (Defendant passes copy of indictment to the Court.)

6 THE COURT: That's the indictment you've already pled to?

7 MR. BLAKE: Yes, sir.

8 MR. STEWART: Yes, sir.

9 Ah, this indictment alleges that Weldon Stewart, Jr. in the
10 County of Marlboro on or about December 6, 2000, did willfully and
11 knowingly and without proper legal authority desecrate the human
12 remains of one Candice Allen; to-wit: by setting her body on fire.

13 I was arraigned on this indictment October 17, 2002, and
14 pleaded guilty to it. This was before Judge Burch, and he
15 accepted my guilty plea but, ah, deferred my sentencing.

16 And, sir, if I may with the Court's permission request
17 clarification of a few issues dealing with this?

18 THE COURT: Alright. I'm not sure what this s relevant to
19 but go ahead.

20 MR. STEWART: Ah, the elements included in the desecration
21 indictment that I have just passed up, by the State bringing an
22 indictment against me for this defense by my plea of guilty to this
23 indictment and by the Court accepting my plea, this means that we
24 are all in agreement that the things alleged in that indictment are
25 true. Is that correct, sir?

1 THE COURT: Well, I'm not offering legal opinions this
2 morning. Just keep on speaking.

3 MR. STEWART: Ah, this indictment was brought against me
4 under South Carolina Code Section 16-17-600, Subsection (a) for the
5 burning of the victim's body, and I have here with me Section 16-
6 17-600, and if I may read from Subsection (a), it says here that it
7 is unlawful for a person willfully, knowingly and without proper
8 legal authority to destroy or damage the remains of a deceased
9 human being.

10 Ah, now, I feel that since the State has presented upon me an
11 indictment # 02-GS-34-1918, and I have pleaded guilty to it. The
12 Court has accepted my guilty plea. I feel this tends to show that
13 we are all in agreement that the things alleged in that indictment
14 are true, and the indictment alleges that I violated South Carolina
15 Code Section 16-17-600, Subsection (a) by burning the victim's
16 body.

17 Now, in my opinion, according to the provisions of Section 16-
18 17-600, by my indictment for desecration of human remains and my
19 plea of guilty thereto, I think this shows that the State has
20 already acknowledged just quoting Judge Lockemy from a December, I
21 think it was 11, hearing the State has already acknowledged that
22 the victim was deceased prior to the burning of her body simply by
23 presenting me with an indictment for the desecration of human
24 remains for this offense.

25 Therefore, I cannot understand the legality of the State

1 including burning in the murder indictment as a possible cause of
2 death.

3 MR. BLAKE: Your Honor, this was addressed in the October
4 17th hearing by Judge Burch. Judge Burch said that that did present
5 an interesting conundrum and that it would be dealt with at trial.

6 MR. STEWART: Sir - - sir, if I may be allowed to - - justice

7 - - -

RULING OF THE COURT

8
9 THE COURT: I am at this time going to deny your request
10 for an independent pathologist. I am not going to contend that you
11 cannot bring it back up but you have not yet interviewed the
12 pathologist who did this - - who prepared the report, rather. You
13 have not had a chance to ask that pathologist, you know, "Are you
14 going to testify that you think I burned this person as a manner of
15 causing death or are you going to testify like the indictment I
16 pled to that she was dead at the time that I burned her?"

17 Depending on what response you get may depend on what needs to
18 be done thereafter. So I would ask the State to go ahead and make
19 those arrangements to get him down to talk to the people who
20 performed the pathology or performed the autopsy, rather, so that
21 this issue can be cleared up.

22 It may be that Mr. Blake's understanding of what was going to
23 be testified to or what the pathologist meant by his findings was
24 in error, and so you may - - you will find out after you interview
25 the pathologist as to, you know, "Why would the State be trying to

1 contend that I burned the person as a manner of causing death? The
2 State's already had me plead to burning her as a manner of
3 desecration."

4 MR. STEWART: Yes, sir.

5 THE COURT: And once you get your answer there, it may or
6 may not leave you needing to come back and renew your motion but at
7 this point in time, I'm going to deny it.

8 MR. STEWART: Sir, my concern, why I continue to raise this
9 issue is that this being included in the indictment for murder,
10 once this indictment is presented to the - - to the prospective
11 jurors, I think it that it will create an unfair prejudice in that
12 it will - - it will tend to cause them to think that simply because
13 I pleaded guilty to desecration of human remains, I'm also guilty
14 of murder.

15 THE COURT: Not necessarily. The State's going to have to
16 prove. You could have run across the body some four or eight to
17 six hours later, whatever the time frame is, and have burned the
18 body.

19 You've told me at this point in time that the death was
20 unintentional, not murder. I'm not so sure that you don't need to
21 talk some with Mr. Crow as your standby counsel to see what has to
22 be - - to see what elements constitute accident, ah, to talk with
23 him to insure that if you're trying to - - will be asking the Court
24 for a lesser included charge of voluntary manslaughter to see if
25 elements exist for that but sometimes the State makes allegations

1 that it can't prove, and when it can't prove those allegations,
2 then the jury is told that the State has to prove, you know, things
3 beyond a reasonable doubt, and what it can't prove, you're not
4 guilty of.

5 So, I'm not going to strike the - - use this as a method for
6 striking the language of the indictment but I am telling the State
7 to go ahead and make the arrangements to get you down within the
8 next week or ten days to talk with these people so that you'll know
9 what they are going to say, if anything, about burning being a
10 possible cause of death and what you will, perhaps, need to do in
11 response to that.

12 Let me give, ah, your copy of the indictment back to you.

13 (The Court returns copy of indictment to defendant.)

14 THE COURT: I've got somebody's autopsy report here. Is
15 that just something that was handed up?

16 MR. STEWART: Yes, sir. I'll take it.

17 (The Court returns autopsy report to defendant.)

18 MR. STEWART: Thank you.

19 THE COURT: Alright. I have dealt with the motion to
20 obtain a psychiatrist. I have dealt with motion for professional
21 copies of crime scene photographs. I've dealt with the motion for
22 funds to pay for the service of subpoena, motion to obtain a
23 forensic pathologist and motion for the State to disclose the
24 exemplars that it use to contend.

25 I think that takes care of all the motions that were presented

1 to me for consideration. Do you have another one?

2 MOTION - WITNESS INTERVIEWS

3 MR. STEWART: No, sir. I have a - - I have a list of the
4 witnesses.

5 THE COURT: Oh, great.

6 (Defendant passes witness list to the Court.)

7 MR. STEWART: They are - - we did have this list filed with
8 the Clerk of Court. However, we did neglect to put two names on
9 there.

10 I don't know if I need to add those on.

11 THE COURT: Who are the other two?

12 MR. STEWART: It is Pastor Jerry B. Corbett.

13 THE COURT: Jerry B. Corbett?

14 MR. STEWART: Yes, sir. Corbett, C-o-r-b-e-t-t.

15 THE COURT: Alright.

16 MR. STEWART: And Andrienna Sutherland. Andrienna spelled A-
17 n-d-r-i-e-n-n-a Sutherland.

18 THE COURT: A-n-d-r-i

19 MR. STEWART: e.

20 THE COURT: e.

21 MR. STEWART: n-n-a.

22 Sutherland.

23 THE COURT: S-u-t-h-e-r-l-a-n-d?

24 MR. STEWART: Yes, sir.

25 THE COURT: Alright. Ah, I see where these have been in

1 the Clerk's Office. I simply added these names, and you've got
2 those names?

3 MR. BLAKE: I do not have them.

4 THE COURT: Alright.

5 I'm going to give this document back to you so that you and
6 Mr. Crow can be sure. Now, I won't be the trial judge. So, um,
7 we've got personnel here. Have we got any - - let me have that
8 order back. Let me have that back.

9 MR. BLAKE: Your Honor, and for the record, I believe that
10 on the hearing date, May 21st, that Mr. Stewart and his mother
11 created some sort of handwritten list, and I think it was - - it
12 may have been handed up to the Court or Law Clerk. I'm not sure
13 but - - -

14 THE COURT: I did not get it.

15 MR. BLAKE: However, we've got it straight now.

16 MR. STEWART: Ah, I did hand that list up. I'm not sure, ah,
17 exactly how the interviews with my witnesses are going to be
18 handled at the county - - the county jail. However, I - - I will
19 need to interview some of these witnesses in a place where I can
20 record our conversations.

21 THE COURT: Well, you'll have to get permission of the
22 person who is going to be talking with you as to whether they'll
23 agree to a recorded interview or not.

24 MR. STEWART: Sir?

25 THE COURT: Yes, sir.

1 MR. STEWART: In reference to when I will be allowed to begin
2 conducting my interviews of the witnesses, ah, - - -

3 MR. BLAKE: Your Honor, I would like to just include, if we
4 could, in that order some language to the Marlboro County Detention
5 Center kind of letting them know what's going to take place, and I
6 don't see any problems with those interviews beginning immediately.
7 That was one of the reasons that Your Honor wanted to see Mr.
8 Stewart transferred back to the Detention Center.

9 Mr. Stewart has a little bit more to add.

10 MR. STEWART: And, sir, in a place in the county jail - -
11 this will be impossible to do in the regular visitation room - - in
12 a place where I can with the witness' permission record our
13 conversation.

14 MR. BLAKE: Well, Your Honor, the State's not in any way
15 prepared to take Mr. Stewart off-site to some other place for
16 recordings.

17 Mr. Crow, of course, has interviewed witnesses numerous times
18 there at the jail as have I, and those facilities are quite
19 adequate for interviews.

20 MR. STEWART: Ah, if I may be allowed to speak, sir?

21 THE COURT: Yes, sir.

22 MR. STEWART: Ah, as far as being at the county jail, also,
23 my mother who is working with Mr. Crow and my father, they do - -
24 they get my legal papers from me or whatever has to go to Mr. Crow
25 or if Mr. Crow has something to give to me, usually, my mother and

1 father, they have been assisting us. If you - - if you would,
2 please, indicate somewhere in the order that my mother and father
3 be allowed to bring legal papers to me and for me to be able to
4 give legal papers to my mother and father either to give to Mr.
5 Crow or Mr. Blake or where ever they have to go.

6 THE COURT: Mr. Crow, from your standpoint, if he's at the
7 Marlboro County Detention Center, what would be your normal way of
8 handling any legal papers back and forth that need to be received
9 by you or - - -

10 MR. CROW: I just usually carry them and present them to
11 him personally. Rarely do I ever leave anything at the jail and
12 say, "Give this to Mr. Stewart."

13 I take him down - - when he was there before, it was my
14 routine to see him early in the morning, 7:30 - 8:00, and give him
15 papers.

16 MR. STEWART: My mother brings it to me.

17 MR. CROW: Well, your mother brought you some stuff later
18 but what I give you - - what you asked of me, I personally carried
19 to you.

20 And I don't know if the Marlboro County Detention Center- -
21 when you were back the last time, they did not deny you any of your
22 papers or anything, did they?

23 MR. STEWART: No, sir.

24 MR. CROW: And we have two - - as Mr. Blake said, we have
25 two areas there, a multi-purpose room which is very large that he

1 can interview witnesses in if they will go into the Detention
2 Center and also the Judge's Chamber which is right there, and both
3 chambers are private.

4 So, I mean, it's much better facility than Bishopville.

5 But, now, as far as the recording device, I - - I don't know
6 how you going to get that in there to do that?

7 THE COURT: Has your family got a tape player and some
8 tapes if people are willing to do it?

9 MR. STEWART: Ah, we - - we will get those things, sir.

10 THE COURT: Well - - I'm trying to think of a mechanism
11 whereby if a tape is prepared so that the tape doesn't get left but
12 I don't want Mr. Crow to have to go every time - - -

13 MR. CROW: It would be impossible with the time frame and
14 the number of people I represent. I couldn't - - plus, I don't
15 have the means to transcribe them either if he wants transcripts of
16 all these interviews.

17 THE COURT: They'd have to be, I guess, the tape if there
18 was some contradiction would have be simply played in the courtroom
19 as to what somebody said previously.

20 What is your reason for wanting to tape your conversations
21 with potential witnesses?

22 MR. STEWART: Ah, just to have - - should a witness make an
23 inconsistent statement or anything just to have evidence of that.

24 Other than just saying, "Well, you said something else."

25 It would be my word against theirs.

1 THE COURT: You could get into some pickles if you go to
2 want to have a portion of a tape played that you contend is
3 inconsistent and that witness makes the statement, "Well, I told
4 you on another part of that tape exactly what I'm telling you now."

5 And then you end up getting the judge to rule that that part
6 of the tape comes in, too. So it can be a two-edged sword. You
7 understand that?

8 MR. STEWART: Yes, sir.

9 THE COURT: And I'm trying to deal with the mechanics if I
10 allow you to make a tape of somebody's conversation with you as to
11 what would be done with that tape.

12 MR. STEWART: Ah, I do think that we - - some - - some of my
13 family members might have access to a machine that can copy a few
14 tapes at a time, and, certainly, I would be willing to make copies
15 for myself to keep and provide whoever with the original - -
16 whoever would need to be provided with that.

17 MR. BLAKE: I would just say that the State's concern, Your
18 Honor, is one of logistics. He plays a portion of the tape, and as
19 you said, under Rule 106, Rule of Completeness, the rest of the
20 tape gets played, and, you know, we turn into an O. J. Simpson
21 trial, and I already see that the number of witnesses that the
22 defendant may be calling, I'm just concerned that the Court's not
23 going to have enough time to deal with all of this.

24 One alternative is for Mr. Stewart to get a statement from
25 these people that he talks to. That's normally what the State is

1 limited to, and then if they testify differently at trial, he can
2 cross examine them on that written statement.

3 THE COURT: Is there a problem with your having written
4 statements from these individuals that you keep as a part of your
5 legal papers?

6 MR. STEWART: I - - I would not mind getting written
7 statements also but I do want to record conversations also - - not
8 only for purposes of inconsistency but also to prepare my cross
9 examination while I'm reviewing the tapes and the interviews and
10 things of that nature.

11 I do have quite a number of them to conduct.

12 RULING OF THE COURT

13 THE COURT: I'm going to deny the use of tape recorders.
14 I think you can adequately prepare for cross examination and for
15 impeachment purposes by obtaining written statements from those
16 individuals as to their testimony.

17 If somebody refuses to give you a written statement, I'm
18 satisfied that person would also not consent to be interviewed on
19 tape.

20 If you tape somebody without their knowledge of it, that's a
21 violation of the law as well. So I am denying your request as to
22 that matter. I feel that the notes that you make during the
23 interviews as well as written statements will be sufficient for
24 purposes of conducting cross examination and impeaching witnesses.

25 If it's necessary that a Notary be provided so that a

1 statement is simply notarized, ah, I will provide that somebody at
2 the jail who is a Notary perform that service for you if you need
3 a Notary in connection with the statements that you take.

4 I have written on the witness list that it is ordered that the
5 defendant shall have an opportunity to interview these individuals
6 while incarcerated at the Marlboro County Detention Center
7 beginning as soon as he is transferred back.

8 So that you can show to the jail.

9 MR. BLAKE: Thank you, Judge.

10 THE COURT: And they'll know that those people are to be
11 interviewed.

12 MR. CROW: Did you add the other two names?

13 THE COURT: I added those in my handwriting.

14 PLEA OFFER BY THE STATE

15 THE COURT: Are there any offers that have been made by the
16 State to the defendant in connection with, ah, any potential pleas
17 in this matter?

18 MR. BLAKE: Your Honor, there had been a previous plea
19 offer before Mr. Stewart pled to the burning. Ah, at this point
20 the State has - - we haven't been discussing this at this point but
21 the State's offer is twenty-five years, voluntary manslaughter.

22 THE COURT: Now, that is an offer that has been made to
23 you. Um, you can, of course, accept an offer that's made by the
24 State or reject the offer but I wanted to at least have us a record
25 that an offer had been made so that you would have the opportunity

1 to offer it such consideration as you felt it appropriate.

2 You can if you have a counter-offer communicate that either
3 directly to the Solicitor or you can use Mr. Crow as a vehicle
4 through which you can communicate any counter-proposal that you may
5 have.

6 I do not know whether you want to consider any type of plea or
7 you do not want to consider any type of plea, and, of course, as
8 standby counsel Mr. Crow can offer you advice as to why pleas are
9 good in certain instances and why they should be rejected in other
10 instances but, of course, you are your own attorney. So any
11 decision that you make with respect to any plea or whether you do
12 or do not enter into any plea would, of course, be your own
13 decision but Mr. Crow will offer you any advice, if any, you
14 request from him in connection with that.

15 MR. STEWART: Sir, if I may be able to just - - I know that
16 you have already denied this but if I may be able to just say
17 something again about these - - the recording of the interviews,
18 there may be some witnesses such as maybe law enforcement officers
19 or something like that that don't have to necessarily or do not
20 care to sit down and write a statement that may be more willing to
21 allow me to record the conversation.

22 THE COURT: If you've got an officer or a witness who
23 specifically tells you that they don't want to give you a
24 handwritten statement but they would give you a recorded statement,
25 make a list of those people, and we'll deal with it if we have to

1 deal with it.

2 Thank you.

3 MR. BLAKE: Thank you.

4 MR. STEWART: Thank you, sir.

5 (After reviewing documents, the defendant addresses the Court
6 again.)

7 MR. STEWART: Your Honor, sir?

8 THE COURT: Yes, sir.

9 MR. STEWART: The issue has just been brought to my attention
10 that as part of my defense witnesses and/or maybe State witnesses
11 for confidentiality purposes, who is going to be - - these
12 interviews, is it just going to be me, witness and whoever else
13 they allow to come into the interview.

14 THE COURT: Well, the State will not be entitled to have a
15 representative while you conduct your defense preparations.

16 MR. STEWART: Yes, sir.

17 THE COURT: So, they will simply have you in a secured
18 area. To the extent that Mr. Crow may be there for somebody, he
19 may be there but, I mean, I would allow Mr. Crow to be there
20 because he's your standby counsel but we're not going to have, um,
21 we're not going to have State's representatives in earshot of
22 what's taking place while you interview your witnesses.

23 I think the Court has recently had some situations where it's
24 dealt with that, and that would be highly inappropriate.

25 MR. CROW: Yes, sir.

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THE COURT: You will have your confidentiality.

MR. STEWART: Yes, sir.

Thank you.

THE COURT: Yes, sir.

Alright. We're going to be in recess for about twenty minutes.

(Court adjourns this matter for a short recess and then addresses other matters before the Court.)

- - - END OF TRANSCRIPT - - -

CERTIFICATE OF COURT REPORTER

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF MARLBORO)
3

4 I, the undersigned Linda W. McCall, Official Court
5 Reporter for South Carolina Court Administration, do hereby
6 certify that the foregoing is a true, accurate and complete
7 Transcript of Record of all the proceedings had and evidence
8 introduced in the hearing of the captioned case, relative to
9 appeal, in the Court of General Sessions of Darlington County,
10 South Carolina.

11 I do further certify that I am neither of kin, counsel,
12 nor interest to any party hereto.

13 July 2, 2003

14 

15 Linda W. McCall

16 Official Reporter
17