

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Lexington County

Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM ARTHUR KELLY,

APPELLANT

APPELLATE CASE NO. 2024-001153

AMENDED RECORD ON APPEAL

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STATEMENT BY MR. HUBBARD

1 and he literally had to drive through a blizzard.
2 And this was just long enough ago we didn't have
3 cell phones with a way to help us drive. He had a
4 paper map. He had to read a map to make his way to
5 Massachusetts. No evidence he was there before.

6 Again, had his driver's license, multiple
7 jobs. Look what he had going into court: Two
8 death penalty qualified attorneys. Your Honor,
9 these weren't rookies. Beth Fullwood who
10 represented him in court was our public defender
11 for many years, worked at appellant defense. I
12 think everyone in the Lexington Bar still holds her
13 in high esteem. She tried multiple cases, multiple
14 death penalty cases.

15 Wes Kirkland still practicing, has a solid
16 career, and done multiple death penalty cases.
17 These weren't rookies. He had a whole team of
18 investigators, mitigation specialists. This was
19 not some young kid who couldn't talk to some rookie
20 attorney and got himself in a bind and in prison.
21 He had the best we had to offer.

22 Finally, possibility of rehabilitation. You
23 heard about the infractions action. They speak for
24 themselves. It doesn't matter if they are severe
25 or not, but some of them are, particularly the one

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STATEMENT BY MR. HUBBARD

1 right out of the gate, and he gave the same excuse
2 why he had shanks, he wanted to protect himself.
3 That's the same thing he told the cops up in
4 Massachusetts about this knife in evidence. Same
5 story. Phones, drugs, maybe small offenses, but it
6 shows that he doesn't want to comply, even with
7 little rules.

8 Missed opportunities. Your Honor heard Rita
9 Crapps. Either she doesn't know what she's talking
10 about, even though she runs these programs, or she
11 does. I would submit to you, Your Honor, she knows
12 what she's talking about. She didn't come here
13 weighing in on one side or the other, rooting for
14 one side or the other. This is her job. To do
15 that would cost her her job. She's on the record
16 stating clearly what is out there, what is
17 available for this young man right now -- not young
18 man anymore, a 45-year-old man -- what's been
19 available.

20 Sure, new things that popped up, he shot them
21 all down. It took him forever to get a GED. All
22 right, give him a little slack on that. He's had
23 zero inclination of going beyond that. The only
24 thing Rita Crapps said gets some priority for
25 people about to get out was vocational training,

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STATEMENT BY MR. HUBBARD

1 not education. Everybody -- everybody gets that.
2 And she made it clear for all the programs, they
3 want to look at each inmate as someone who is
4 possibly getting at. With vocational training,
5 Your Honor, you can put in to go where you want in
6 the state. You might have to wait a little while,
7 but after 20-something years, he's done nothing,
8 not once.

9 He could come in here and say, Your Honor, I
10 tried it, here is where I've applied, I'm still on
11 a waiting list. He's just said it's not worth it.
12 I'm not going to do it. That's his attitude. The
13 same attitude, Your Honor, that probably got him
14 kicked out of school. He might have had issues in
15 school, but even Dr. Shea, who testified many years
16 ago, said he's average intelligence.

17 His best friend took the stand and said, He
18 just doesn't apply himself. He could have been
19 fine. He's not dumb. And, Your Honor, there are
20 people in SCDC who do have issues, learning
21 disabilities and other things, but they can't take
22 advantage of these programs even if they wanted to.
23 This is a man who chose not to.

24 Finally, he is still lying. Possibility of
25 rehabilitation? You ask Dr. Knight about the

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STATEMENT BY MR. HUBBARD

1 lying. She said it doesn't bother her because she
2 can't tell if someone is lying or not, so she
3 focuses on the crime and on his youthfulness.
4 We're talking about a man now who is 45. You have
5 to focus now. Where is he now? What has he done
6 to turn himself around?

7 I'm going to point out to the Court again, if
8 you want to know who he is, review that
9 fourth statement that he gave her, in her report
10 where for the first time he talks about an affair,
11 where the first time he talks about an affair, a
12 planned affair, long affair, and a plan where they
13 will work together and commit this armed robbery.

14 He knows, Judge, when he made that statement
15 to Dr. Knight we are coming in court. And guess
16 what else he knew? He knew these people would be
17 in this courtroom. He said, Oh, I'm sorry. Judge,
18 he's been waiting for this day. This man is not
19 sorry. How do you lie and say you have remorse?
20 They don't go together. If you don't have remorse,
21 how in the heck can you say you've been
22 rehabilitated? Because the truth is when you look
23 at that statement of his -- and I hope you do, Your
24 Honor, look at it is again. In the best light, he
25 killed his lover and co-conspirator. But if he's

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THE COURT AND ATTORNEYS

1 lying -- and, Your Honor, common sense will tell
2 you he is. The facts you see will tell you he
3 is -- then he knowingly is taunting this family,
4 destroying Shirley's good name, taunting Neil who
5 has never remarried. Their's wasn't a rocky
6 marriage. That was his soul mate.

7 He is taunting Alex saying, Your mama loved
8 me more than you, and she was willing -- I want you
9 to walk out of this courtroom knowing as an adult
10 male your mom was willing to abandon you for me.

11 He absolutely, at 45 years of age, when he
12 makes this statement, knows the consequences of
13 what he's doing. How in God's name can that man
14 get any credit, whatsoever? He doesn't deserve a
15 break. He doesn't deserve a number.

16 Your Honor, by the grace of God, he missed
17 the penalty by five months. But life is as close
18 to justice as we can get in this world, and he
19 doesn't deserve anything other than that.

20 Thank you.

21 THE COURT: Thank you, Solicitor.

22 MS. MAULDIN: Your Honor, may we approach?

23 THE COURT: Absolutely.

24 MS. MAULDIN: I have photographs. These are
25 him as a child. That's not his dad. And then I

STATEMENT BY MS. MAULDIN

1 have --

2 THE COURT: These are all marked. Then the
3 form from the Department of Corrections where he
4 changed his religious preference. This is
5 something he did back in August of -- July Of 2012.
6 And then, in the very beginning, she was talking
7 about his employment records. These are to give
8 you an idea of who he was at the time. This was
9 the booking photo from Lowell, Massachusetts.

10 And this is shortly after his arrest, just
11 another photo of him. Sorry, the quality, they
12 were printed out from news articles.

13 And then these are from -- this would have
14 been -- that is 2011, so maybe 16 years afterwards.

15 The other thing for the Court's information,
16 we offered a 40-year sentence. We've tried to come
17 to an agreement back in November of 2022. The
18 State's position is that was inappropriate.

19 MR. HUBBARD: He has 30 under his belt.

20 MS. MAULDIN: And then we offered 45, and
21 they declined it. So we're not being hardheaded
22 about this.

23 THE COURT: Are you getting all of this?

24 COURT REPORTER: Yes.

25 THE COURT: Ms. Mauldin, I'll defer to you

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STATEMENT BY MS. MAULDIN

1 with any closing summation you would like to make.

2 MS. MAULDIN: Thank you. I'll try to be
3 brief as well. With this case, again, we're
4 absolutely not trying to minimize the horror of
5 what happened, and certainly that is the State's
6 largest argument. That is why, in some reasons,
7 they retried the case in front of Your Honor with
8 all of the photographs and the witness testimony
9 from the case itself.

10 We know that that is an important factor.
11 The horror of the event, and the brutality of the
12 killing, both in the stabbing in that number of
13 times, and the fact that Ms. Shealy was pregnant at
14 the time, we understand that is a factor. We're
15 not trying to minimize that or the damage or pain
16 that it has done to her family. We understand
17 that. We just ask the Court to consider that that
18 is not the only factor, and that the other factors
19 are equally valuable and deserving of weight and
20 consideration, and so that's what we're asking the
21 Court to do.

22 To respond just to a few issues about the
23 facts, as far as the gas can, there was no other
24 testimony about that. You heard on the stand there
25 was an odor of gasoline. I don't think that

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STATEMENT BY MS. MAULDIN

1 anything in the prior discovery materials indicated
2 that or the original testimony.

3 The way that Mr. Kelly found himself in
4 Massachusetts was that that's where his step sister
5 lived, and he had been to a wedding in
6 Massachusetts with his family not terribly long
7 before all of this happened. He also made a call
8 at some point to her daughter, his step sister's
9 daughter, while he was on the way to Massachusetts.
10 But other than -- I mean, yes, he drove through a
11 snowstorm and was trying to get away and not face
12 what was going on. I will say, though, as soon as
13 the police arrived at the home, they noted that the
14 hood of the car was still warm. He had just gotten
15 there. He was sitting inside at the kitchen table,
16 and he was there with the family.

17 The police who went into the home described
18 him as -- when they looked through the window and
19 saw him, that they saw a teenager sitting there.
20 That is the person that he appeared to them.
21 Chronological age is important. That is what he
22 was. He was 17. He was close to 18, but he was 17
23 years old as far as his age and brain agreement.
24 But that is who they saw, and that's the person in
25 the pictures that Your Honor has now. So we ask

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

STATEMENT BY MS. MAULDIN

1 you to consider that.

2 The relationship that you heard about, at the
3 end of the day, the horror of the circumstances I
4 think outweigh whether or not there was a
5 relationship. But it's an unanswered question, so
6 that is why we have addressed it. I have provided
7 those reports to the police and to the
8 investigators working for the defense.

9 There was certainly -- there certainly was
10 allegations back then that there was something
11 going on between them. Those were, as I said, to
12 law enforcement who were investigating this right
13 afterwards, and more came out to the defense
14 investigators. Maybe you discount that because it
15 was in the defense investigation, and I get that,
16 but the original accounts were to the police.

17 The people that knew these folks and working
18 there thought they were -- there was some evidence
19 of something going on. You also heard from Jessie
20 Johnson who testified on the stand that he thought
21 something was going on, and he, himself, reported
22 on January 8th, just a few days after this, that
23 something was going on as well.

24 So, again, I don't think in the whole scheme
25 of things it matters. The overwhelming takeaway

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

STATEMENT BY MS. MAULDIN

1 from the circumstances factor is the horror of this
2 and how violent the death was, not whether there is
3 a relationship or any participation or anything
4 like that. But since it is out there, I ask the
5 Court to look at all of the facts we have so far
6 about it.

7 Of course, the most significant factor that
8 was not addressed then, and while, you know --
9 whether this were tried again as a death penalty
10 case, you know, if he were older, I mean, we can
11 speculate about those kinds of things, but it is
12 very important that the circumstances of his home
13 life were never explored in that trial. Although
14 the defense team had information from Dr. Morgan,
15 and then as you heard later, from Dr. Maddox, about
16 the allegations of abuse. Since then, materials
17 that Dr. Knight have reviewed have shown a picture
18 of that.

19 I don't think that that the State can argue
20 that Michael and Jessie were not credible when they
21 talked about what was going on in that home. That
22 information was never presented in the trial, and
23 the best reason that we can find for that is that
24 no one would be honest about it and come in and
25 testify in court, because they were still afraid of

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STATEMENT BY MS. MAULDIN

1 Mike Kelly and any repercussions that might have
2 come up from that. So that was never presented,
3 even though there is significant evidence of it.

4 THE COURT: Is there a PCR associated with
5 this conviction?

6 MS. MAULDIN: There was one in 2006. I'm not
7 aware that there was a PCR related to the trial
8 itself. I don't think that was --

9 THE COURT: Solicitor?

10 MR. HUBBARD: My only understanding is all
11 appeals, all PCRs, everything were handled. This
12 is the only thing open.

13 THE COURT: Right. And I saw something in
14 the doctor's report about there was a PCR in 2016
15 that was withdrawn because he filed this motion
16 under *Aiken v. Byars*, so that is why I asked.
17 Because, you know, typically those are the types of
18 issues which are explored in a post-conviction
19 relief action, not on a resentencing action. I
20 understand the importance of bringing it up. I get
21 it.

22 MS. MAULDIN: Yes, sir. And I think at the
23 time -- I'm not trying to say that those attorneys
24 were deficient, but I think at the time that no one
25 was willing to come forward and testify, and so

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STATEMENT BY MS. MAULDIN

1 without that testimony, I think they were stuck.
2 Of course, that is just me looking back. But they
3 didn't present it, and I don't think they had the
4 witnesses that would come to court. Certainly,
5 Michael himself testified that he was not here.

6 THE COURT: He was active duty in the Navy.

7 MS. MAULDIN: Right. For a death penalty
8 trial, he probably would have been released.
9 Again, that is my speculation, but he was not here,
10 and he was afraid of his father and afraid of what
11 would happen to his mother if he talked. So, Your
12 Honor, there is certainly evidence of that.

13 Dr. Knight has drawn the connection between
14 the abuse and the anger that Will felt, and the way
15 that came out and expressed itself was in this
16 encounter with Ms. Shealy. He lashed out. The
17 best simplified explanation that Ms. Knight has
18 given -- that Dr. Knight has given me is it's like
19 an abused child might bully another child on the
20 playground. And, of course, this is certainly a
21 lot worse than that. I'm not trying to minimize
22 the facts, again, but just as a simplified
23 explanation on how the transfer of aggression
24 happens.

25 This was not a case where Billy could explode

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

STATEMENT BY MS. MAULDIN

1 and attack his father, because his father regularly
2 attacked him. And so that anger that he had, that
3 he had been ruminating on, expressed itself with
4 someone else once the trigger arose. And, again,
5 we don't know without having been there -- we don't
6 know what the trigger was, but something happened,
7 and the anger expressed itself. So we ask the
8 Court to consider that factor. I think it is
9 extremely significant in this case.

10 As far as the incompetencies of youth, I do
11 think it is important that while he was in the
12 detention center, and you've heard the evidence
13 about the alleged attempted escape. First of all,
14 there were some mortar missing from the bricks. He
15 never actually got out anywhere. You know, that is
16 as far as it goes.

17 This incident with the alleged plan to kidnap
18 a CO, even if you believe what Mr. Mackormic
19 testified to, the evidence in that account is that
20 Will stopped any sort of plan. If he had that
21 plan, and that is what he was going to do, he
22 didn't carry it out. So if the allegation is even
23 true, there is evidence that he didn't act on any
24 sort of ill-will or attempt to do violence in that
25 situation.

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

STATEMENT BY MS. MAULDIN

1 I think the most important factor is the
2 rehabilitation factor. In this case, as you've
3 heard, and you can see Dr. Knight's graph in her
4 report, he absolutely had no history of violence
5 beforehand. This is certainly the peek in this
6 event, and certainly that wants a lengthy sentence,
7 which he is serving. But after that, there is no
8 violent activity again.

9 You've heard about the infractions. You've
10 heard that there have been no episodes of doing any
11 actual violence to anybody else. You've heard that
12 he had the shanks, but you have the letter as well
13 that shows a few months before that, he had been
14 threatened. It was bad enough that his lawyer
15 reached out to the Department of Corrections to try
16 to protect him.

17 You have the other infractions that certainly
18 are violations of the rules, but they are not the
19 kinds of things that caused or risked violence to
20 any other inmate or to any employee of the
21 Department of Corrections. So I think those are a
22 different caliber of offense. And a lot of those
23 things are things -- as Dr. Knight pointed out --
24 are not criminal behavior on the outside.
25 Certainly, they are infractions and you have to

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

STATEMENT BY MS. MAULDIN

1 follow the rules when you are in SCDC, but those
2 are not problems in the outside world.

3 The State made a big deal about the fact he
4 had taken advantage of certain programs in SCDC.
5 You've heard about the issue of availability, and I
6 do think, you know, even as a lawyer who tried to
7 get clients into ATU and different things like
8 that, SCDC has not run quite as smoothly as it
9 sounds like it might be. Their own policies
10 discussed reentry programs and how you have to
11 be -- priority is given to the folks that actually
12 have a chance at reentry in the near future.

13 It would be, I think, unusual for a person
14 who expected to remain in prison for the rest of
15 his life to try to participate in a reentry program
16 or vocational program if he thought he was going to
17 be in prison for the rest of his life.

18 Certainly, I think that the strongest
19 evidence that he is rehabilitated is the fact that
20 he has not re-offended in any sort of violent
21 manner. So those programs are not the only way you
22 can -- you've heard from his friend Jessie about
23 his devotion to his religion and things that appeal
24 to him about the religion and the values that he
25 holds dear. So I ask the Court to take that into

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MR. BILLY KELLY TO THE COURT

1 consideration.

2 Your Honor, I would like to pass up just --
3 I've got a sentencing memorandum and a letter you
4 heard about prior -- one of the people that worked
5 on mitigation in this case. This is the letter to
6 Ms. Glass. And that is the sentencing --

7 THE COURT: Thank you. Who is this letter
8 to?

9 MS. MAULDIN: This is to Ms. Glass.

10 THE COURT: All right. Go ahead.

11 MS. MAULDIN: And Will would like to address
12 the Court, if you would allow that, too.

13 THE COURT: Sure. I'll be glad to hear from
14 him. He can come up here.

15 Yes, sir.

16 MR. KELLY: Your Honor, no matter what
17 happened during my childhood or whatever --
18 anything -- none of that really matters. I know
19 exactly what I did. I know -- not only did I take
20 away a mother, a sister, a daughter, future
21 brother, future son. I didn't take just one life,
22 I took two. I know by all rights and everything
23 equal in this world, I should get the death
24 penalty. I was comfortable with that. I know what
25 I did. I did it to someone I knew, I grew up with,

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

MR. BILLY KELLY TO THE COURT

1 and she trusted me. That type of betrayal on
2 another person, and just the fear and anxiety and
3 looking and everything when I -- I literally
4 slaughtered her. It was not no easy death. It was
5 -- it didn't -- she didn't deserve none of it.
6 There was nothing in the world that she could have
7 done to make that happen to her. I know -- I've
8 always known that Neil never got married. I know
9 it's because of me. I know everything that has
10 ever happened to that family, that this is going to
11 be a black mark on them, not only from the
12 generations that are here now, but even the
13 generations after that.

14 By all rights and everything out of this
15 whole situation, I'm the one that faired the best,
16 and I'm still here. My family can still talk to
17 me. I can't give that back. I wish I could, but I
18 can't.

19 I mean, attorneys tell me I shouldn't even
20 look at them. But I do want to -- I do want to --
21 I do want to tell them I'm sorry. I know it
22 doesn't make up for anything I did to them, and I
23 know there was so much crap that came out and
24 everything, and it was not my intention for it to
25 come out in the manner it did and everything.

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

MR. BILLY KELLY TO THE COURT

1 I never really -- I'm guilty. Point-blank,
2 I'm guilty of one of the most horrific crimes. It
3 changed the town. The whole town I lived in, it
4 changed everybody. It is not something that will
5 ever go away. I know that, Your Honor.

6 I don't know if they would ever want to talk
7 with me, but if they ever did, I would listen to
8 them. I would -- if they had some questions for
9 me, I would talk to them. But I know because the
10 way the laws works and everything, and because I'm
11 up here, I mean, you can't trust the situation, and
12 I understand that, you know what I mean. I don't
13 want to make it any worse. It can't get no worse.

14 I am sorry to the victim's family. I know --
15 I knew Alex. I watched him walk in the restaurant
16 several times, so I know -- I know there is an
17 effect on him. I know every relationship he'll
18 ever have will be playing back on what I did. So I
19 do understand that. I'm not blind to it, Your
20 Honor.

21 By all rights, you should give me a life
22 sentence, to be honest with you, because it is a
23 life for a life -- not one, but two. That's it,
24 Your Honor.

25 THE COURT: Thank you, Mr. Kelly.

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

THE COURT

1 MS. MAULDIN: What he's talking about is he
2 had asked me whether he could face the family and
3 make an apology in court, and I told him I did not
4 want him to turn around and look at them.

5 THE COURT: Thank you, Mr. Mauldin. I
6 appreciate you saying that.

7 MS. MAULDIN: What he has asked is if the
8 family had anything they wanted to say to him or
9 any questions, he's telling them that he would be
10 available if they wanted to do that, if it would
11 make them feel any better. I understand that is a
12 difficult thing for them to contemplate.

13 But, Your Honor, you heard it, I think that's
14 true remorse, and whatever happened, I ask you to
15 consider that.

16 THE COURT: Thank you, Ms. Mauldin.

17 MR. HUBBARD: One other thing. I was going
18 to mark the slides I put up, if you don't mind that
19 in as 361.

20 THE COURT: I'm not -- the transcript, I'll
21 sift through that and take what I think I need. I
22 will take make -- before I take it on Friday with
23 me, I'll make an inventory on what I'm taking or
24 what I'm not taking, whatever is left, okay.

25 THE CLERK: Yes, sir.

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

THE COURT

1 THE COURT: And we'll take care of that.

2 Let me speak just for a moment. I know the
3 family wants finality.

4 Mr. Kelly, I know you want finality.

5 I simply cannot rule right now. I know you
6 want me to, but I can't, okay. More waiting on
7 your all's part, and I'm sorry, but I have to
8 examine the transcript. I have to read the record.
9 I have to consider all of the notes I've taken and
10 everything I've heard here today, and try to come
11 up with a decision which I think is the best for
12 society.

13 You know, being a judge is a tough job. You
14 know, people think you put on this black robe, have
15 all of the answers. Obviously, I've been doing
16 this a long time, and that's not the truth. All
17 right. I made a lot of tough decisions in my life,
18 and this is going to be right up there with one of
19 the toughest decisions I've ever made. I know the
20 significance of what this is, both from Mr. Kelly's
21 standpoint and yours. I understand that part of
22 justice is having mercy and compassion, okay. Part
23 of justice is taking into account vengeance for the
24 victim or victim's family, and trying to --
25 supposedly, because I have a black robe, I have the

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THE COURT

1 answer. Well, that's not necessarily true.

2 I will tell you, if this -- for what it's
3 worth, whenever I have a tough decision like this,
4 I always try to rest on this little -- for lack of
5 a better word or description -- this little saying
6 I have in the back of my mind, you know, "Man's
7 justice is flawed by nature. God's justice is
8 perfect."

9 You know, our system, our legal system, you
10 know, for many victims' families is unfair. You
11 have a guy who just admitted to me 28 years later
12 that he's guilty, that he did it. He's taken up
13 everybody's time in courts, and you all have to
14 come to these hearings and worrying. I understand.
15 It doesn't seem fair.

16 Likewise, sir, I mean, you have all of this
17 in this courtroom. Thank God for this country, we
18 have Constitutional rights, okay. The one that is
19 guiding you is the Eighth Amendment. Our United
20 States Supreme Court says that life in prison for a
21 juvenile offender is, per se, unconstitutional and
22 is cruel and unusual punishment. However, the
23 Court has to make factual findings as to why it
24 shouldn't be that.

25 I don't know what I'm going to do, the bottom

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THE COURT

1 line. I wish I could make a decision right now,
2 but I do want to read through everything. I told
3 the lawyers before we started this, for the benefit
4 of both sides, that I don't like to sit on things
5 for a long time, okay. I was assigned this case in
6 August of 2016 by then Chief Justice Pleicones. So
7 I've had this case for almost eight years.

8 We've had a couple of status conference
9 hearings, but it's taken that long to get it to the
10 point where it's finally ended. So I'll take my
11 time sifting through this. I told the lawyers it
12 will take me at least a month, 30 days, to look
13 through everything, because I have to hold court.
14 Okay. I've got to find time in between where I'm
15 holding court and doing court to read through
16 everything that I need to read and make my
17 decision.

18 So I don't want you to think it is going to
19 be tomorrow. I'll tell you now, for both sides,
20 it's probably going to be, you know, towards the
21 end of June when I let the attorneys know my
22 decision. Depending on what my decision is, I'll
23 have the attorneys prepare an order for my review,
24 and then we'll go from there, okay.

25 But without hearing anything further, I'll

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THE COURT

1 close this record, end this proceeding.

2 Ms. Mauldin?

3 MS. MAULDIN: I have a couple of motions I
4 would like to submit to you in writing, if you
5 would allow me? I just want to make sure I have
6 everything in that I can get them to Your Honor by
7 the end of the week?

8 THE COURT: That would be fine.

9 Anything from the State?

10 MS. MAYES: Yes, Your Honor. May it please
11 the Court. We did receive a sentencing memorandum
12 from the defense. The State would also request an
13 opportunity to submit --

14 THE COURT: Both of you have ten days to --
15 typically in civil trials I say both sides have ten
16 days to submit any post-trial motions or any other
17 considerations you wish to make.

18 MS. MAYES: Very well.

19 THE COURT: Just e-mail it to me and/or my
20 law clerk, and I'm consider all of it.

21 Anything else for this record?

22 Thank everybody for your participation,
23 especially the attorneys.

24 Dr. Knight, thank you for your thorough
25 report.

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

THE COURT

1 Have a good day. That concludes this
2 hearing.

3 (Whereupon, the resentencing hearing for
4 State v. William Kelly concluded.)

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ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

THE COURT

CERTIFICATE OF REPORTER

State of South Carolina)

County of Lexington)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the resentencing hearing of the captioned case, relative to appeal, in the Court of General Sessions for Lexington County, South Carolina, on the 22nd day of May, 2024.

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

August 20, 2024

Natalie Dahl, RPR

Natalie Dahl
Registered Professional Reporter
State of South Carolina Official Court Reporter

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD**

Case#: _____ Inmate Name: _____ SCDC#: _____

Living Area: _____ Job: _____ Custody: _____

Offense Date: ____/____/____ Offense Time: ____ AM/PM Offense Location: _____

Offense Description: _____

Charging Officer/Employee: _____

INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 24 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

INMATE WAIVERS:

- ☐ I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING
☐ I DO NOT WANT TO BE PRESENT AT MY HEARING ☐ I WAIVE MY RIGHT TO A HEARING

IF MAJOR DISCIPLINARY HEARING

- ☐ I DO WANT MY ACCUSER PRESENT AT THE HEARING ☒ I WANT A COUNSEL SUBSTITUTE
☐ I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING ☐ I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: ____/____/____ AM/PM By (Print): _____

Inmate Signature: _____ Date: ____/____/____

HEARING INFORMATION:

Hearing Date: <u>2/10/03</u>	Hearing Time: <u>1:15</u> am/pm	Tape: <u>182</u>	Side: <u>A</u>	Start: <u>213</u>	End: <u>216</u>
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EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; OR (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING.

OFFENSE CODES	<u>1.06</u>			
INMATE PLEA (G, NG, None)	<u>G</u>			
FINDINGS (G, NG, DS)	<u>G</u>			

REDUCED TO MINOR PRIOR TO DOCKET NO (DOCKET) _____ (HEARING) _____ BY (INITIALS): _____
 IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT;
 (B) OFFICER'S REPORT; (C) WITNESS TESTIMONY; (D) OTHER. EXPLAIN IN DETAIL: Warden's report on this
inmate's report that he had been abused for his report.

HEARING LENGTH: _____ (MINUTES)

SANCTIONS:

Loss of Privileges (Days) _____	Reprimand: ☒	Loss of Good Time (days): _____
* Property (Days) _____	Extra Duty: _____	Restitution: \$ _____
* Canteen (Days) <u>10</u>	Contact Visit Suspension Thru <u>1/1</u>	
* Other <u>4</u> (Days) <u>210</u>	Category 1/2/3 Cell Restriction (Days): _____	

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: Stableman for 4615

CREDIT FOR PHD TIME SERVED? YES/NO _____ IF YES, DAYS 1

DATE INMATE PLACED IN PHD 2/10/03

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: William A. Kelly DATE: _____

HEARING OFFICER (PRINT NAME) William A. Kelly

APPROVED/REVERSE/MODIFY William A. Kelly REASON C. B. Kelly

Warden

CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

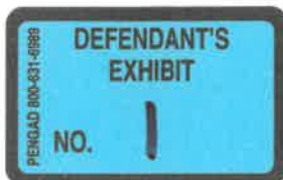
White - Institutional Record

Canary - Inmate (Service of Disciplinary Report)

Golden Rod - Inmate (Service of Disciplinary Hearing Disposition)

Pink - Central Record

Green - Financial Accounting (Restitution sanctions only)



SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

03-62-017

Page 1 of 1

Institution / Center: Lee C.I.	Date of Report: 2-3-03
Reporting Official: G. Pearson	Date of Incident: 2-3-03
Location of Incident: Che/South	Time of Incident: 6:55 pm
Inmate(s) / Resident(s) / SCDC#	Age Race Sex Employee(s) Involved
1. William Kelly 250459 w/m	1. Sgt Pearson
2.	2. Afc McBride
3.	3. Afc Ferral
4.	4.
5.	5.

On the above date and approximate time: inmate Kelly William 1213 room was searched and two shanks were found, both shanks are approximately 10 inches long, 1st shank was made from inner door plate with point cut end, 2nd shank was made from metal rod with point cut end, both shanks were found under inmate Kelly as he was sleeping on them inside his mattress. inmate Kelly was taken to shift ~~to~~ holding cell.

Inmate William Kelly charge with
1st possession of a weapon

Signature: G. Pearson

Title: Sgt

Evidence: Two 10 inch shanks

Disposition: Confiscated and dropped

Witness(es):

Supervisor's Comments: I'm was informed of the
thing placed in SMC

Action Taken

- () Counseling () Informal Resolution
() Extra Duty / Other
() Incident is STG related
() Refer to Disciplinary Hearing

Signature: L. Bradley

Title: Lt.

Major's Comments:

Refer to STG Committee:

() Yes () No () Unknown

This Incident is DRUG related:

() Yes () No () Unknown

Disciplinary Classification

Signature: [Signature]

Date: 2-6-03

() Major () Minor () Informal Resolution

Susan C. Knight, Ph.D., ABPP
 Licensed Clinical Psychologist
 Board-Certified Forensic Psychologist
 knight@apsforensic.com

Applied Psychological Services, LLC
 1941 Savage Rd., Ste. 400A
 Charleston, South Carolina, 29407
 (843) 637-5729- Phone; (843) 410-2802-Fax

JLWOP MILLER / AIKEN EVALUATION

Examinee: KELLY, William

Date of Birth: [REDACTED] 1978

Case Name/#: *State of South Carolina vs. William Arthur Kelly* / # 96-GS-32-3226

Dates of Examinee Interviews: April 5, 2018; August 23, 2018; September 28, 2018; November 19, 2019; April 14, 2023; and April 23, 2024

Examiner: Susan C. Knight, Ph.D., ABPP



IDENTIFYING DATA: Mr. William A. Kelly is a 45-year-old, single Caucasian male, presently incarcerated in the South Carolina Department of Corrections (SCDC). On September 17, 1998, Mr. Kelly was found guilty by jury trial of Murder, Kidnapping, Armed Robbery and Possession of a Weapon During Commission of a Violent Crime. On September 19, 1998, he was sentenced to death, with his Kidnapping sentence subsumed; and consecutive sentences on his remaining charges, of 30 years [Armed Robbery] and 5 years [Possession of a Weapon]. His charges stemmed from an incident on January 5, 1996, at 17 years and seven months of age. In January 2002, his death sentence was vacated by the USSC, and in July 2006, he was resentenced to LWOP. Given his age at the time of his charges, for which he ultimately received an LWOP sentence, Mr. Kelly's attorney requested a forensic psychological evaluation to evaluate his developmental, social and psychological functioning; and any pertinent issues related to his charges and sentencing given his adolescence at the time of the offense. The evaluation was initiated within the context of the United States Supreme Court's holding in *Miller v. Alabama*, 57 U.S. 460 (2012), and subsequent holding by the South Carolina Supreme Court in *Aiken v. Byars*, 410 S.C. 534 (2014). Therefore, on the above listed dates, Mr. Kelly was evaluated pursuant to *Miller* and *Aiken*, at SCDC's Broad River Correctional Institution.

SUMMARY OPINION: Based on the totality of data gathered in the evaluation, to include clinical interviews with Mr. Kelly; interviews with multiple family and extrafamilial sources, former trial attorneys, and former mitigation specialist; and a review of collateral records, to include academic; psychosocial; legal; and correctional; the following is found as summarized.

At age 17, Mr. Kelly fell within 'mid-adolescence,' with the attendant 'Hallmark Features of Youth,' to include underdeveloped future orientation and foresight; impulsivity; recklessness; poor consideration of risk; and a focus on immediate situational rewards over long-term consequence. His 'Family and Home Environment' consisted of severe physical and emotional abuse, and domestic violence, perpetrated by his father, who exerted 'coercive control.' The 'Circumstances of the Homicide' were an extension of these factors due to repressed anger and desperation; in addition to adolescent traits of underestimating risk and consequence, and difficulty thinking beyond immediate situational factors. Upon arrest, he was subject to the 'Incompetencies Associated with Youth,' via deficient appreciation of *Miranda* due to adolescence and inexperience; and developmental factors impacting ability for trust and effective collaboration with his attorneys. In consideration of the 'Possibility of Rehabilitation,' research overwhelmingly supports an adolescent's desistance from crime as they age, with a 'heightened capacity for change.' Mr. Kelly's course in SCDC has been strongly reflective of such, with very few disciplinaries, and none violent; and significant cognitive and social maturation, with demonstrated ability for reflection, insight, and remorse.

Name: KELLY, William
Date of Birth: [REDACTED] 1978

Susan C. Knight, Ph.D., ABPP
 Board-Certified Forensic Psychologist

SOURCES OF INFORMATION: The following sources of information were reviewed in forming the opinions found in this report:

Discovery/Legal Documents [Case No# 96-GS-32-3226]

1. Lexington County Sheriff's Office Booking Reports and Arrest Record for Jerry Wyndam, dated from May 17, 1993 to January 15, 1996;
2. Law enforcement crime scene photos, undated;
3. Batesburg Leesville Police Department Written and Typed Witness Statement of Mary Coleman [January 5, 1996 and January 6, 1996]; Charles D. Davis, dated January 6, 1996; Bryant Parks, dated January 6, 1996; and George L. Davis, Andy Higgenbotham, Terry Hutto, Sally Jeffcoat, dated January 7, 1996;
4. Batesburg Leesville Police Department Voluntary Statements of K. L. Harris, Sandra Gibson, and Jeffrey Tolen, dated January 6, 1996; Paula Ann Wise, dated January 7, 1996; and Melissa Boland dated January 8, 1996 and January 9, 1996;
5. Batesburg Leesville Police Department Incident and Supplementary Reports, dated from January 5, 1996 to January 9, 1996;
6. Batesburg Leesville Police Department Voluntary Statements of Patshie Dozier, on January 5, 1996 and Barbara J. Adams, dated January 6, 1996;
7. Aiken County Sheriff's Office Incident Report [Missing Person], dated January 6, 1996;
8. Batesburg-Leesville Police Department Supplementary Report, dated January 8, 1996;
9. Batesburg Leesville Police Department Consent to Search and Statement of Jerry Wyndham, dated January 8, 1996;
10. Lowell [MA] Police Department Arrest Report for William A. Kelly, on January 8, 1996;
11. Trial Court of MA District Court, Application for Complaint, dated January 8, 1996;
12. Lowell [MA] Arrest/Booking Sheet for William A. Kelly, dated January 8, 1996;
13. Lowell [MA] Police Department Defendant Statement of William A. Kelly, dated January 8, 1996;
14. Lowell [MA] Police Department Witness Statements of Ms. Starr Lacoy and Ms. Maude Elizabeth Lacoy, dated January 8, 1996;
15. Lowell [MA] Police Department case-related documents, including officer narratives, and affidavits; search warrant and return, and Motor Vehicle and Inventory Report, dated January 8, 1996 to January 10, 1996;
16. Batesburg Police Department Consent to Search Form, for 93 Thornton Rd., Batesburg, SC, signed by Ms. Julia Kelly, on January 8, 1996;
17. Necropsy [Autopsy] Report from Newberry County Memorial Hospital, by Joel S. Sexton, MD, report initialed on January 9, 1996;
18. Batesburg-Leesville Police Department handwritten statement from Jason Hite, dated February 19, 1996;
19. ICHR Requests for Rap Sheet for William A. Kelly, September 21, 1998; February 14, 2002; and September 11, 2002;

Defense Investigative Memos

20. Letter from Southwind Enterprises to Mr. Lee T. Connelly, dated January 11, 1996;
21. Letter from Ms. Barbara Carlson, Southwind Enterprises [Burger King], to Lee T. Connelly, dated January 11, 1996;
22. Defense Investigative Interview Memos of and about Jerry D. Wyndham, dated September 11, 1996; July 19, 1996; January 26, 1996; and July 7, 1998;
23. Defense Investigative Memo with Maude E. Lacoy, dated January 18, 1997;

Name: KELLY, William
Date of Birth: [REDACTED], 1978

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24. Defense Investigative Memo of Kelvin Lee Harris, dated July 21, 1998;
25. Defense Investigative Memo of Jesse Johnson, dated July 24, 1998;
26. Potential Juror Information and related documents dated July 27, 1998 to August 7, 1998;
27. Defense Investigative Interview Memo of Patshie Dozier, dated July 29, 1998;
28. Witness interviews from Information Services / D. B. MacDougall to Elizabeth Fullwood, Esq., and H. Wesley Kirkland, Esq., dated August 27, 1998;

Legal Documents / Records

29. State of South Carolina County of Lexington, Indictment for Murder; Kidnapping; Armed Robbery; and Possession or Display of a Knife During the Commission of a Violent Crime, Court of General Sessions, dated November 11, 1996;
30. Record on Appeal, September 15 1998 to September 19, 1998;
31. State of South Carolina County of Lexington, *State vs. William Arthur Kelly*, In the Court of General Sessions, Form of Verdict, CA. No. 96-GS-32-3226, September 17, 1998;
32. State of South Carolina County of Lexington, *The State vs. William Arthur Kelly*, In the Court of General Sessions, Arraignment/Sentence Sheets, CA. No. 96-GS-32-3226, for Possession of a Knife During Commission of a Violent Crime, Armed Robbery and Kidnapping, dated September 19, 1998;
33. State of South Carolina County of Lexington, *State vs. William Arthur Kelly*, In the Court of General Sessions, Aggravating Circumstances, CA. No. 96-GS-32-3226, dated September 19, 1998;
34. State of South Carolina County of Lexington, *State vs. William Arthur Kelly*, In the Court of General Sessions, Recommendation of Sentence of Death Penalty, CA. No. 96-GS-32-3226, dated September 19, 1998;
35. State of South Carolina County of Lexington, *State vs. William Arthur Kelly*, In the Court of General Sessions, Sentence and Affirmation of Death Sentence, CA. No. 96-GS-32-3226, by the Honorable Gary E. Clary, dated September 19, 1998;
36. State of South Carolina County of Lexington, *State vs. William Arthur Kelly*, In the Court of General Sessions, Sentencing Sheets for Kidnapping, Armed Robbery, and Possession of a Weapon During Commission of a Violent Crime, September 19, 1998;
37. State of South Carolina County of Lexington *State vs. William Arthur Kelly*, In the Court of General Sessions, Sentencing Sheets for Murder and Kidnapping, dated July 14, 2006;
38. State of South Carolina County of Lexington *William Kelly, Applicant, v. State of South Carolina*, In the Court of Common Pleas for the Tenth Judicial Circuit, Order of Dismissal, by the Honorable Edward W. Miller, dated August 1, 2016;

Case News Articles

39. The State, *Man on Trial for Slaying*, J. Allard, dated September 14, 1998;
40. The State, *Jury selection underway in Batesburg-Leesville killing*, author unknown, dated September 15, 1998;
41. The State, *Death Penalty OK in fetus' killing*, R. Brundrett, dated September 17, 1998;
42. The State, *Suspect fights death penalty*, J. Allard, dated September 17, 1998;
43. The State, *Jury finds man guilty in stabbing*, J. Allard, dated September 18, 1998;
44. The State, *Kelly jury to decide killer's fate*, J. Allard, dated September 19, 1998;
45. The State, *Jury sentences Kelly to be executed*, J. Allard, dated September 19, 1998;
46. The State, *Judge erred in 'Bloody Billy' case*, R. Brundrett, dated January 10, 2002;

Judicial Decisions

47. *State v. Kelly*, 343 S.C. 350 (2001);
48. *Kelly v. South Carolina*, 534 U.S. 246 (2002);

Psychosocial Records [Examinee]

49. Mr. Kelly's birth records from Lexington County Hospital, dated [REDACTED], 1978;
50. Academic records from Lexington County School District Three, dated August 1984 [1st grade] to June 1994 [9th grade];
51. School records from Aiken County School District, August 22, 1994 to October 28, 1994;
52. Employment records from KFC and Burger King for William A. Kelly, dated February 22, 1995 to August 31, 1995;
53. Medical and correctional records from the Lexington County Detention Center, dated 1996 to 1998;
54. Psychological Evaluation report by Steven J. Shea, PhD., with attached CV and "Adjustment to Incarceration: William Kelly," document, attorney correspondence and memo, dated July 17, 1998 to September 16, 1998;
55. Medical records from the South Carolina Department of Corrections, September 19, 1998 to November 21, 2022;
56. Warden's Jacket and Central Record, from the South Carolina Department of Corrections, September 19, 1998 to April 6, 2023;
57. Handwritten letter from William Kelly to Drucy Glass [former mitigation investigator], October 28, 2020;
58. SCDC Inmate Profile Sheet, April 11, 2024;
59. SCDC Record Summary Sheet for William A. Kelly, April 15, 2024;

Psychosocial Records Requested and Not Received [Examinee]

60. Records would have been requested from Mr. Kelly's former pediatrician, Dr. Gordon Counts, Jr., however, his practice was permanently closed as of May 2017;
61. Records from the Lexington Medical Center were requested, however, they no longer have access to his childhood records due to retention policies;

Psychosocial Records [Collaterals]

62. Academic records from elementary school for Julia Lancaster [mother] from Richland County School District One, dated from 1954 to 1960;
63. Georgia Department of Human Resources, Certificate of Live Birth for Michelle A. Kelly [sister], date of birth [REDACTED];
64. Medical records for Julia Kelly [mother] from Midlands OBGYN Associates, Lexington County Hospital, and Lexington Medical Center, dated April 1976 to February 1986;
65. Certificate of Live Birth, M. T. Kelly [brother], [REDACTED] dated May 27, 1998;
66. Richland Memorial Hospital records for Julia Kelly [mother] dated December 30, 1977;
67. Academic records for Ms. Michelle Kelly [maternal half-sister] from Batesburg-Leesville High School, 1979 to May 1985;
68. Discharge summary from Aiken Area Mental Health (not specified), for Michael T. Kelly [father] from October 1981;
69. Pediatric medical records [Dr. Counts] for M. T. Kelly [brother], 1983 to 1992;
70. Academic records for Michael T. Kelly, Jr. [brother] from Lexington County School District, August 1983 to August 1997;

Name: KELLY, William
 Date of Birth: [REDACTED] 1978

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71. James Kelly [paternal uncle] volunteer and employment records from Richland County School District One, SLED 'Records Check;' Personnel records from Richland County School District One; Orangeburg Consolidated School District 4; and City of Camden Criminal Records check, from 1986 to 1998;
72. License and Certificate of Marriage for Danny McCormick and Michelle Kelly, December 2, 1987; and Report of Divorce or Annulment of Marriage, February 11, 1994;
73. Medical records from Lexington County Hospital and Gordon Counts, MD, for Angela McCormack [niece], June 2, 1988 to February 11, 1997;
74. Medical records from Richland Memorial Hospital, Lexington Medical Center and Gordon Counts, MD, for Stephanie McCormack, June 24, 1990 to March 22, 1997;
75. Medical records for Ruth Kelly [paternal grandmother], from 1992 to 1997;
76. Boy Scouts of America Certificate Eagle Scout, M. Kelly, [brother] December 8, 1994;
77. Military records for Michael T. Kelly, Jr. [brother], February 1995 to July 1998;
78. Memo from investigator Lee Connelly *re*: Mr. Kelly's mother's records from Carolina Primary Care, dated May 12, 1997;
79. Medical records from Lexington Medical Center, Baptist Medical Center, SC Neurological Clinic, Richland Memorial Hospital and Gordon Counts, MD, for Christina McCormack [niece], March 22, 1992 to February 18, 1997;
80. Aiken County School District Records for Angela McCormack, Christina McCormack and Stephanie McCormack [nieces], academic year, 1997/1998;

Interview/Attorney Memoranda

81. Interview memoranda contained in a mitigation investigation document entitled, '*The State v. William Arthur Kelly*' by Vivian Massey, to include memos from approximately forty interviews with Mr. Kelly, dated from March 11, 1997 to July 28, 1998; and over 100 interview memos from various family members; friends; coworkers; teachers; and other collateral sources, dated from approximately April 9, 1997 to July 30, 1998;
82. Letter to defense counsel from David B. MacDougall, dated August 27, 1998 with attached defense investigative memos, including for Mary Ann Anderson [undated, but prior to August 27, 1998], Edmond Wilson [August 11, 1998], Sammy Wise [August 11, 1998] and Melissa Wise Graham [August 11, 1998];
83. Attorney Memoranda *re*: medical testing procedures and results for William Kelly from Dr. Donna Schwartz-Watts, March 20, 1998 to July 20, 1998;

Clinical and Collateral Interviews

84. Clinical Interview with William Kelly, two hours, forty-five minutes, April 5, 2018;
85. Clinical Interview with William Kelly, three hours, forty-five minutes, August 23, 2018;
86. Clinical Interview with William Kelly, three and one half hours, September 28, 2018;
87. Interview (telephone) with Beth Fullwood, Esq. [former trial attorney], October 28, 2019;
88. Interview (telephone) with Wes Kirkland, Esq. [former trial attorney], November 7, 2019;
89. Interview (telephone) Kathy Evatt [former trial attorney], November 19, 2019;
90. Clinical Interview with W. Kelly, two hours, forty-five minutes, November 19, 2019;
91. Interview (telephone) with Vivian Massey-Hilton [former trial litigation investigator] December 6, 2019;
92. Attempted interview Julia Amick [mother], and interview with Wendell Amick [stepfather], on December 15, 2019;

Name: KELLY, William
Date of Birth: [REDACTED] 1978

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93. Interview with Michael Kelly, Sr. [father], and Mirna Williams [stepmother], on December 15, 2019;
94. Interview with Mark Cumbee [former brother in-law], on December 15, 2019;
95. Interview with Jesse Johnson [childhood best friend] on January 8, 2020;
96. Interview with Roger Mitchell [former neighbor] on January 9, 2020;
97. Interview (telephone) Michael Kelly, Jr. [brother], on January 17, 2020, and brief contact on April 20, 2024;
98. Interview (telephone) with, Elizabeth Lacoy [paternal half-sister], February 19, 2020;
99. Interview (telephone) with Brenda Khiel [maternal aunt], on September 10, 2020;
100. Interview (telephone) with Margie Hogg [maternal aunt], on September 10, 2020;
101. Clinical Interview with William Kelly, three hours, April 14, 2023;
102. Clinical Interview with William Kelly, two and one half hours, April 23, 2024;

Collateral Interview Attempted

103. Multiple efforts were made by the mitigation investigator to reach Mr. Kelly's sister, Ms. Michelle Cumbee, however, such efforts were unsuccessful by report submission.

DISCLOSURE OF NON-CONFIDENTIALITY: Prior to the evaluation, Mr. Kelly was provided information regarding the purpose and non-confidential nature of the evaluation. He was informed that any information he provided would not be confidential and would be provided to his attorney, which, at his attorney's discretion, may be distributed to the court. He was also informed that the nature of the evaluation did not include a treatment relationship with the examiner and treatment would not be provided. Mr. Kelly acknowledged understanding of the evaluation parameters, and provided his consent to proceed.

CLINICAL PRESENTATION: Mr. Kelly's clinical presentation was consistent across all six interviews, despite being separated by months to years. He presented as appropriately dressed in prison-issued attire, with good attention to grooming and hygiene. He was cooperative and forthcoming with information, including offense-related and other difficult subjects. His overall demeanor was pleasant, respectful and engaged. His mood was stable, with congruent affect, to include some distress when discussing the offense. His speech was of normal volume, rate and rhythm, with no abnormalities noted in psychomotor functioning. His thought process was linear and organized, with thought content appropriate to inquiries. His responses were detailed and thoughtful, and he was able to maintain focus. He was not under mental health treatment; and there were no indicators of major mental illness, personality pathology or cognitive deficits which would have impaired his participation, or ability to provide valid and reliable information.

DEVELOPMENTAL HISTORY [EXAMINEE]: Developmental history prior to the homicide offense in January 1996 is outlined below, as reported by Mr. Kelly, with inclusion of psychosocial records, and collateral interview data. *[Mr. Kelly's developmental abuse history is detailed in a separate section below].*

Pregnancy/Birth [Records & Interview Memo]: His mother's medical records indicate that on December 30, 1977, while 17 weeks pregnant with Mr. Kelly, she was involved in a motor vehicle accident. She presented emergently to Richland Memorial Hospital. She was "alert and conscious" with left neck and shoulder pain and a headache. No abdominal injury was noted, although the incident may have been the catalyst for Mr. Kelly's 'breech' position at birth.

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Mr. Kelly's birth records from Lexington County Hospital indicate he was born on [REDACTED], 1978, weighing 6 lbs., 8.2 oz., as a "breech delivery," with respiratory distress at birth. His pulse suddenly dropped requiring oxygen treatment, which appeared stabilizing. His Apgar scores were 5 and 7 (with other records indicating scores of 6 and 9). *[Apgar scores are taken at one and five minutes after birth, and are a rapid measure of an infant's functioning in various domains. Total scores of 6 and below indicate abnormal functioning].*

Mr. Kelly's mother, Julia Kelly, was interviewed in 1997 and 1998, by the pre-trial mitigation investigator. Per an interview memo, she reported being in a "head on collision" while pregnant with Mr. Kelly, after which he "turned to a breech position and remained there until he was born." At birth, he "had breathing problems, was lethargic and they thought he was going to die."

Childhood/Family [Examinee]: Mr. Kelly reported that for the majority of his childhood, he was raised in the "Pine Brush, Batesburg/Leesville area, at [REDACTED]" It was a "rural area, just a handful of homes around there." He resided on the family's property, "dad built the house." His parents were married during his childhood, divorcing in 2001, after the start of his present incarceration. His mother "never worked, always stayed home..." His father worked in Augusta, as a "maintenance guy, fixed what got broke..." at various companies. His father primarily worked second shift during his childhood. He was raised with two siblings, a half-maternal sister, "11 or 12 years older [Michelle]," and a full biological brother, one and one half years older [Michael, Jr.]. When Mr. Kelly was older, his sister moved out of the family home. She "lived on the same property, in a trailer 150 yards away, with her three daughters, she was back and forth from the house to the trailer."

Mr. Kelly reported no prominent substance use, mental disorder, or criminality in the home. His father consumed beer daily after work, but he did not believe his father abused alcohol and "never saw him drunk." His mother "was not a drinker, just a few beers." Both "parents smoked a little weed every now and then. I think dad grew marijuana for his own personal consumption, whatever we needed [food], we grew it." He knew of no criminal history, or diagnosed mental illness, with either parent. *[Mr. Kelly's childhood was also significant for severe physical and emotional abuse within the family, as detailed in a separate section below].*

Childhood/Family [Father - Examiner Interview]: Mr. Kelly's father, and his wife of 19 years, Mirna Williams, were interviewed by the examiner. *[Ms. Williams did not know Mr. Kelly prior to his incarceration].* His father is now 77 years old, and resides in Augusta, Georgia. His father reported he attended school until the 11th grade, and then joined the Navy. He served three tours in Vietnam. After he met his current wife, she observed concerning behaviors, and facilitated an evaluation by the local VA Medical Center. He has since been diagnosed with Posttraumatic Stress Disorder [PTSD], has obtained treatment, and is service connected for this condition. He was untreated for this condition during Mr. Kelly's childhood.

His father met Mr. Kelly's mother in "1971 or 1972" in Columbia, South Carolina. They each had a daughter from prior marriages, and her daughter, Michelle, lived with them. Mr. Kelly's father eventually "adopted Michelle." In 1980, "when the boys were little," the family moved to the Batesburg area, in Aiken county, where his father purchased "28.2 acres," and built a house on the property. They had "no close neighbors" due to the rurality of the property.

His father worked in electrical maintenance, on second shift [3:00 p.m. to 11:00 p.m.] for most of Mr. Kelly's childhood. He "drove 51 miles to work, six days a week" and would sometimes work out of town for weeks at a time.

In discussing Mr. Kelly's mother, he claimed she was "wild, very manipulative." He described her as deceptive and overtly promiscuous, alluding to many extra-marital affairs. He also denigrated her parenting, and that she told the children not to listen to him. He described an extremely contentious marriage, with frequent verbal and physical fighting. He described one instance where he seriously considered using the knife he was holding to cut or stab her during a fight, and agreed it had 'gotten that bad.' He also stated Mr. Kelly's mother was a "heavy drinker, had six to eight beers a day and a quart of wine a night, two packs of cigarettes a day, also smoked marijuana." When asked if she drank or consumed marijuana while pregnant with Mr. Kelly, he stated "probably was, might have," but could not give specifics. He was certain she smoked cigarettes throughout the pregnancy, as she "always smoked."

Childhood/Family [Brother - Examiner Interview]: Mr. Kelly's older brother, Michael Kelly, Jr., provided the following information. He is 47 years old, and resides in Washington State, with his family. He is a Navy veteran, with a college degree in mathematics and computer science. He works in data analysis for a large litigation firm. His brother described their childhood home as "pretty isolated, no close neighbors" and "we were thirty minutes" from town. He stated "both parents drank a lot, can't remember them not drinking, just beer. Dad always had a beer in his hand, we had to fetch him beer, mom drank every day, almost as much as he did, but I'm not sure if they were drunk or not. Both used marijuana, they thought they were hiding it, but I could tell. Billy brought marijuana to school and got expelled" which he believed was their parents' marijuana. His expulsion was somewhat inconsequential, as "we weren't encouraged to do a lot of school."

Academic History [Examinee]: Mr. Kelly attended "Batesburg/Lexington County schools," attending "Batesburg-Leesville Elementary, Batesburg-Leesville Middle School and Batesburg-Leesville High School." In elementary school, he was in the "book club, Reading Rainbow, I was always good at reading." He had "pretty good" grades in elementary school, and reported no behavioral problems. At Batesburg Middle, he "had no problems, did all my homework." However, "high school didn't start off good, I didn't talk to a lot of people, I was nervous..." He was bullied over his initials 'WAK' for 'William Arthur Kelly' in that students would make comments alluding to masturbation. They would say " 'Billy 'waks' off in band class...." He was called "Billy WAK" and "once the mantra got out, it really started..."

Due to the bullying, his "grades fell off a little bit, not much interest in school, started sitting in the back of class to not be bothered, so other students wouldn't bother me." He "started to get failing grades, and didn't have enough credits to get into the 10th grade year." Therefore, he had to repeat his 9th grade year. Due to the school enforcing geographical rules regarding his family's address, he transferred from Lexington County schools to Aiken County, and thus, "began the 9th grade again at Ridge Spring-Monetta High School." However, he "got kicked out fall semester of my 9th grade year from Monetta at age 16, got caught with marijuana in my pocket. Another student told them I was high and they searched me, it was my parents' weed. I was expelled and never went back, so I started working at fast food restaurants."

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Academic History [Father - Examiner Interview]: His father verified that, “Billy took his mother’s marijuana to school, and they expelled him for it.” He did not know if Mr. Kelly was using marijuana or just wanted to show it to peers, as he “did not have a lot of friends.”

Academic History [Lexington County School District]: Mr. Kelly’s school records from Lexington County School District Three reflect that he attended Batesburg-Leesville Elementary School for grades 1st through 5th; Batesburg-Leesville Middle for grades 6th to 8th; and Batesburg-Leesville High School for the 9th grade. He began 1st grade in the 1984/1985 school year. In September 1984, in the 1st grade, his score fell within the ‘Not Ready’ range on the Cognitive Skills Assessment Battery (CSAB), with notably lower scores in verbal skills (reading comprehension and language) versus mathematics. Therefore, he was not promoted, and was held back to repeat the first grade for the 1985/1986 school year. In September 1985, at the start of repeating his 1st grade year, he scored within the ‘Ready’ range on the CSAB.

As he progressed through elementary school, his grades dropped some, with increasingly more C’s, and his first D, by the 5th grade. This trend continued into middle school. In the 9th grade [1993/1994], he obtained failing grades (F’s) for the first time, in three classes. On standardized testing, his scores trended toward the average to below average range, with his language skills testing consistently lower than mathematics. Additionally, each year he took the Basic Skills Assessment Program [BSAP], in the 3rd grade [Spring 1988]; 6th grade [Spring 1991]; and 8th grade [Spring 1993], his scores were rated as “Needs Improvement” in all years. Records indicate disciplinary infractions for the 9th grade only [1993/1994], when he incurred multiple infractions over the course of the year. However, all were minor (e.g., out of class without a pass; tardy; failure to follow directions, etc.).

Records indicate Mr. Kelly began his second attempt at the 9th grade for the 1994/1995 school year, within the Aiken County School District, at Ridge Spring-Monetta High School. His family technically resided in Aiken County, and during this year, the district strictly enforced geographic eligibility. Thus, he was transferred out of Lexington County Schools, and into Aiken County. Records from Aiken County indicate an enrollment date of August 22, 1994, and an expulsion date of October 28, 1994, at age 16.

Academic History [Teachers - Interview Memos]: Multiple teachers and school personnel were interviewed by the pretrial mitigation investigator, in 1997 and 1998. Interview memos indicate the following regarding Mr. Kelly’s academic and social functioning.

His primary school (1st grade) teacher [Deborah Taylor] stated he was “immature for the 1st grade” and “had to repeat the 1st grade,” as he did not complete his reading. He was not a discipline problem. His elementary school teachers noted the following. His 3rd grade teacher [Mrs. Chapman] stated Mr. Kelly was a “typical little boy...no major problems or serious trouble with him.” His 4th grade teacher [Ms. Wendy Boykin] recalled him as “quiet, typical boy...polite...always respectful.” His 5th grade teacher [Ms. Wanda Brown], recalled Mr. Kelly as a “quiet child, with no discipline problems.” His middle school teachers noted the following. His middle school physical education teacher [Ms. Aza Hines Williams], described him as “quiet and reserved...shied away from a crowd and didn’t have many friends...very little interaction with others.” He “had to have direction [to understand] ...and was calm and obedient.”

His middle school social studies teacher [Mary Frances Engle] “stated that Billy was not achieving up to his ability.” He was a “loner...didn’t socialize with the other class members. He was never rude and always accepted correction well from her.” He “always wore a raincoat/ trench coat...no matter what the weather was. He never removed it.” *[During the present evaluation, Mr. Kelly explained, “trench coats were the ‘fad’ at the time, that’s why I was wearing it.”]* His middle school science teacher [Janet Hayden] indicated he “was very active in the science club. He went with them on field trips, was interested in science and gave them no problems.” His middle school principal [Mr. Robert Williams], described Mr. Kelly as a “very quiet boy who was never in trouble...always stayed by himself.”

Another middle school science teacher [Dave Swagler] recalled Mr. Kelly was “undersized” and “always wore a raincoat buttoned up to the neck no matter how hot it was.” He “was a “model” student” with a ‘C’ average, and “was always quiet and never a behavioral problem.” Mr. Swagler recalled Mr. Kelly was not very social with the other students, “never palled around with the other students” and “just stood around” on the playground.” He was “non-conversational in school” and was “not outgoing.”

His 8th grade science teacher [Darlena Mixon] recalled Mr. Kelly “may not have had the social skills necessary for one his age.” He “wore a long trench coat to school” and “would swing it open quickly and pretend to flash people.” However, she “didn’t have any major problems with Billy” in her class. His middle school art teacher [Mrs. Ruff] described Mr. Kelly as a student who would “draw attention to himself” by adding immature sexual details to his class drawings, and making sexual innuendos and “crude” remarks in class. He engaged in other immature behaviors “around the other students in class” which he found “funny.” His 8th grade Language Arts teacher [Ms. Sharon Barnette] reported he “wore a trench coat to school... typical 8th grader who acted silly and liked to joke around...liked to make the other kids laugh.” She did not recall discipline issues. His 8th grade band director [Ms. Cissy Terlizzi], stated “Billy was a strange child who always wore a trench coat. He did things in class to get the attention of other students.” His middle school assistant principal [Bill Keesling] described him as “quiet...no memory of behavior problems.”

His high school teachers noted the following. His 9th grade Industrial Technology teacher at Batesburg-Leesville High [Mr. Wash] described Mr. Kelly as a “quiet, withdrawn student, who did not talk a lot...showed no outward behavior signs, gave him no problems in class and never fought with other students.” His guidance counselor [Dr. Terry Fellers], recalled Mr. Kelly as a “quiet type and very shy. He was not involved in school activities and didn’t have many friends.” His 9th grade English teacher [Mr. Randy McGill], described Mr. Kelly as “a quiet fellow much of the time.” He “was fairly popular” and “got along with the other students” but “Billy sort of fit in with the group but not completely. He just didn’t quite fit in somehow.” He “felt that Billy was looking for someone to latch on to. Many times he would come after class, hang around and wanted to talk about things that didn’t always make sense. Billy seemed like a little kid who wanted and needed attention...” He was “very respectful and always courteous.”

His 9th grade Geography teacher [Mr. Ross Cary] “never saw Billy laugh...was a quiet person who never said much...did not have any close friends...never had any discipline problems... very respectful.” He “always came to class alone, usually walking by himself in the hallways.” He used different routes to avoid bullying.

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He “was very quiet, but it was like his brain was always in gear...in a state by himself.” His assistant principal [Mr. James Davis], described him as “a quiet guy, very pleasant, not a bully type...was a loner and that seemed to be his means of coping.... reminded [him] of a person who was looking for a friend.” He also related the story of Mr. Kelly being expelled for having marijuana on his person. His high school guidance counselor [Richard Phillips] also recounted this story, and noted “other than that Billy was quiet and demonstrated no other problems that required his attention or disciplinary action.”

The supervisor of transportation at Ridge Spring Monetta [Ms. Gloria Fulmer] indicated Mr. Kelly “rode the bus and sat by himself and didn’t communicate with the other children...was a quiet child and very polite. He didn’t talk very much and used nonverbal actions to communicate...a strange child.” She noted he “lived in an isolated area with few houses around them.” His study hall teacher [Ms. Parrish] indicated Mr. Kelly “was very well behaved and quiet. He sat at the table with the other students but didn’t participate in conversation.”

His Civics teacher at Ridge-Spring Monetta [Mr. Young] recalled Mr. Kelly was “quiet and attentive in class...was a loner...hung around with a crowd who liked to sneak out behind the gym to smoke.” His 9th grade home room teacher [Ms. Hagler] reported he “was a loner...did not socialize with people...was overly quiet almost to the point of being withdrawn.” He “was a weird child. He didn’t want people bothering him. He always gave one word answers to questions and didn’t volunteer anything...It was like he wanted to disappear...tried to be as quiet as possible so as not to be noticed.” She believed he smoked marijuana.

Social History [Examinee]: Mr. Kelly “had a speech impediment as a kid, I went to speech therapy, used to stutter a lot. I didn’t talk a lot so people wouldn’t hear me, I grew out of it by high school.” He described feeling “shy, anxious, and nervous over the stutter.” He reported few social activities in elementary and middle school, in that “as soon as I left school, I always went home.” He was “lonely, but I kept myself busy by doing stuff, used to take stuff apart and put it back together, engines, VCR’s...” He “never really had friends, only Jesse, I was pretty much by myself...most friends would want to come to my home and I couldn’t let anybody around my Pops. I was afraid to bring somebody home...I didn’t want anyone to see what was going on in our house, the way he treated us, kind of made us shut off in our own little world.” He met his one friend Jesse Johnson, “in primary school, first grade, he wore leg braces, had muscular dystrophy and then was in a wheelchair...” Although Jesse came to his home, Mr. Kelly “never slept over” at Jesse’s house.

Regarding extracurricular activities, from age 5 to approximately age 16, he was involved in “Cub Scouts, Boy Scouts, and Webelo Scouts...” He “did a lot of camping trips, my brother was in Scouts with me...” He also “went to 4-H Camp at age 11, and Camp Barstow at age 12 or 13, went three years in a row.” His biggest accomplishment was the Order of the Arrow, for which, as a teenager, he “did survival skills, they dropped us off with a boiled egg and slice of bread, no food or water, did survival skills, just a sleeping bag.” Additionally, Mr. Kelly “took karate when I was a kid, for three or four years, in my early teens. I made it to orange belt, my brother took it with me...” He eventually “grew out of it.” As he grew older, he began to socialize more, and “go to little hangouts, Heavy D’s in Batesburg, dance and hang out, or The 200 in Columbia to dance.” Both were “teenage clubs” meaning they did not sell alcohol.

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Social History [‘Best Friend’ – Examiner Interview]: Mr. Jesse Johnson was Mr. Kelly’s closest friend during his development. At the time of the interview, he was residing in Mauldin, South Carolina, and working full-time. Mr. Johnson stated he first met Mr. Kelly in elementary school. They “had an immediate bond, he was very helpful to me.” Mr. Johnson is disabled due to a congenital condition and has been confined to a wheelchair since middle school. When they first met, Mr. Johnson wore “leg braces” and “Billy was one of the first students to help me out, he was very helpful. He talked to me and carried my books, then I had to use a wheelchair and he offered to push me in middle school, 6th grade, one of the first people to help me.”

Mr. Johnson is African American and stated Mr. Kelly, “was more drawn to the low income black kids” for a social group. He “wore a lot of secondhand type of clothes, plaid, high waters, he got teased a lot, he dealt with it by joking back, and didn’t let people know it bothered him.” He noted Mr. Kelly was not popular, and was ridiculed by peers. He gave the example of, “if girls liked him, they didn’t want anyone to know.” Mr. Johnson described the worst of the ridicule when students began using Mr. Kelly’s initials [W.A.K.] to refer to masturbation. In the 10th grade, “the teasing made Billy quit band, and that started a huge downward spiral, and he didn’t hang out as much.”

Mr. Johnson was close to Mr. Kelly, and in addition to seeing each other every day in school, “we saw each other every weekend, or every other weekend, at his house...they lived way out in the middle of the country, nothing around them.” He and Mr. Kelly would “play games, talk, joke around, spend the night.” Mr. Johnson stated, “I was his only friend.” Due to his frequent visits to the Kelly home, Mr. Johnson was familiar with Mr. Kelly’s home and family. He stated their home was “very dreary, dark...so much clutter and stuff, clothes, trinkets...” He recalled “sometimes there was no heat in the house, it was kerosene heat, so sometimes no hot water.” Mr. Kelly’s father “drank all the time, beer” and “smoked marijuana, but not his mother.”

Social History [Father – Examiner Interview]: Socially, his father described Mr. Kelly as “about three years behind, has never been mature...would do stupid things when he didn’t understand things...” He reported that in middle school, Mr. Kelly “got with the wrong crowd.” He “always thought his friends were neat even when they were doing things that were not right. He thought they were cool even when they took his money out of the bank account.” He believed Mr. Kelly felt “left out” among his peers, but could not articulate a reason. He also stated “Billy had no leadership” among his peers, and did not recall Mr. Kelly really “dating girls.” When queried, he stated Mr. Kelly was not defiant or ‘hardheaded’ but a very obedient child. His father described Mr. Kelly as frequently working outside as a child, and “a good kid.” He never saw any violence from Mr. Kelly prior to the offense, stating he was never in fights with peers, or violent in the home.

Social History [Relatives – Interview Memos]: In her pre-trial interview memo, Mr. Kelly’s sister Michelle described him as “always a little slow and immature for his age...he wanted attention but he didn’t know how to get it. When he was 17 years old, he had the mind of a 12-year-old child...he would take his paycheck and spend it on people he thought were his friends. He would ride people around in his car and burn his gas just to have people like him.” Ms. Samantha Dolsen is the half-sister of Mr. Kelly’s sister, Maude Lacoy. In her pretrial memo, she described Mr. Kelly as “slow and very naïve...he wasn’t quick to excel and he gave up on things quickly...did not fit in with his family and he didn’t get a lot of support from them.”

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He “loses the connection when you try to explain things to him. He understands for a while but then he doesn’t.” Mr. Kelly’s father’s first wife, Frances Ingells, recalled Mr. Kelly as “seemed to be slower than most children...didn’t grasp things as quickly as he should have... comprehension of things was slower than it should have been.” Mr. Kelly’s maternal aunt, Brenda Khiel described him as “curious and inquisitive,” but “had a problem grasping things, had a poor attention span and was squirmy.” Another aunt, Ms. Hogg, noted, “Billy didn’t always understand things.”

Social History [Boy Scout Leaders – Interview Memos]: Several of Mr. Kelly’s Cub Scout and Boy Scout leaders were interviewed by the mitigation investigator in 1998, prior to his trial. His Cub Scout leader, Karl Duncan worked with Billy from ages 5 to 10. He described Mr. Kelly as “quiet, cute and nice...polite...a good little boy. He had good manners too.” A volunteer with the local animal hospital worked closely with the Cub Scouts and recalled Mr. Kelly was “a good boy, worked hard on his projects...no problems, very cooperative in Scouts” and “would have protected puppies,” versus hurting them. His Webelo Scout leader [Kathy Kneeece] stated she “had no problem with him” and that he “worked hard.”

His Boy Scout leader, Harry Hill, recalled “Billy had a problem with self-acceptance. He wanted to attract attention to himself so he often ‘talked a big story about being a tough guy.’” However, “Mr. Hill never saw Billy actually act on the things he said” and “he never saw any violence in Billy.” He had trouble interacting with the other boys as he was “authoritative in his style and tried to be in command,” and “used bully-type language.” Mr. Hill believed “he didn’t seem to know what to do to fit in...he was at an awkward age.” Mr. Kelly was responsive when they spoke with him, and “never retaliated,” but lapsed into the same behaviors for the next meeting. He also “tried to be different and draw attention to himself by wearing a trench coat sometimes.”

Mr. Barry Seabaugh was Mr. Kelly’s “assistant Scout leader.” He recalled Mr. Kelly as “a little slower than the other Scouts” but was “very polite...didn’t show hostile tendencies and was never violent.” He recalled Mr. Kelly “wore a trench coat because it was a fad at the time.”

Social History [Acquaintances – Interview Memos]: Several of Mr. Kelly’s adolescent acquaintances were interviewed in 1998, by the mitigation investigator. Two individuals who went to high school with him [Toni Pryor and Jeremy Ergle] separately described Mr. Kelly as “quiet” and “weird.” Another individual [David Kinard] described Mr. Kelly as “a little weird...a strange acting boy...just different and quieter than his brother.” A female manager from McDonald’s [Jennifer Chapman] described Mr. Kelly as “tried hard to make friends and get along with the other workers. He was polite, but the other workers didn’t accept him.” She noted Mr. Kelly “liked her,” and had difficulty with socialization and cues regarding contact.

Relationship History [Examinee]: Prior to his arrest, Mr. Kelly “never had a serious girlfriend, I was always quiet and closed off.” He “had a car and some money from jobs and stuff so I got lucky sometimes.”

Vocational History [Examinee]: Mr. Kelly’s “first paying job” was at age 13, “picking peaches” which was short lived. At age 15 and 16, he started working in fast food restaurants. He worked at Burger King for “three to six months,” and did not recall why this job ended.

He worked at KFC for “a year to a year and a half” which he “quit” over working conditions. His last job was with McDonalds, in Aiken, “for the last six months before I got arrested.” At these workplaces, he “would usually cook, run the cash register.”

Vocational History [Records/Interview Memo]: Records from KFC indicate he submitted an application for employment on February 22, 1995 as a “cook.” He worked at KFC twenty hours per week “frying chicken and running register.” On June 20, 1995, he submitted an application for employment at Burger King. Per his application, he was employed at KFC at the time, with his supervisor’s name as “Shirley Shealy.” He checked “yes” that they could contact her. He was hired at Burger King for twenty hours a week. He was employed by Burger King from June 20, 1995 to August 19, 1995, earning \$353.65. He resigned from Burger King on August 31, 1995 due to “no call, no show” for “three days.” He was recommended for rehire due to “fair” scores in all performance areas. *[Employment records from McDonalds were not available for review].*

In a pre-trial interview memo, Mr. Kelly’s Burger King supervisor, Ms. Sabrina Jones, described him as “polite, nice, and very mannerable, he was a quiet person who kept to himself and did his work. He got along with the other workers...always came to work on time.” He “quit because he wanted more hours but he couldn’t get them at Burger King” and took a job which provided for more hours. In other pre-trial memos, co-workers of Mr. Kelly’s at KFC described him as “a good worker, always nice to people, never saw him mad [Shera Abney];” and “real quiet until he got to know everyone, then he would joke around, friend to everyone, pretty keyed up person, good about doing what he was told and like everybody, was slack sometimes too [Sarah Davis].”

Medical & Mental Health History [Examinee]: Mr. Kelly reported very little medical treatment as a child. He stated “most of the time, we did home remedies, we didn’t go to the doctor, you had to be really sick to go to the doctor.” He believes this was so the doctors would not see the bruises from his father’s abuse *[detailed below]*. When he was 7 years old, he hurt his finger in a fan accident. He lost the tip of his left index finger, and has a noticeable deformity from this incident. He reported no mental health treatment as a child or adolescent.

Substance Use History [Examinee]: Mr. Kelly “first tried weed at age 13, swiped it from Pop’s stash.” He did not use frequently. At age 16 or 17, “I started buying it on my own.” He was “not using a whole lot, used it on the weekends, every now and then.” He used with two individuals he purchased from, “we would hang out, order pizza or go to the movies...I had a car, that’s why they hung out with me.” Regarding any other drugs, he “tried LSD once at age 16 or 17, I didn’t like it, broke out in a cold sweat.” He denied experimentation or use of any other substance.

Regarding alcohol, he “drank at the house a few times, at age 13, I tried vodka, my parent’s vodka bottle, got plastered, drank with my brother and cousin.” He “drank at Christmas and on holidays,” but did not consume alcohol regularly. As an older teenager, he “drank some on the weekends, Friday nights, got a pint of E&J, me and two other people...” When asked about any adverse consequences from drinking, he “wrecked my brother’s car, I wanted to be cool and drive without my glasses on, I’d rather be cool than see, I was a kid.”

Legal History: Mr. Kelly has no history of juvenile arrests or charges, and no adult arrests or charges, prior to his current case.

DEVELOPMENTAL ABUSE HISTORY [Examinee]: The most prominent developmental factor during Mr. Kelly's childhood was severe physical and emotional abuse from his father. This abuse is first presented from Mr. Kelly's account, obtained during the present evaluation, and from his pre-trial interview memos.

Physical Abuse: Mr. Kelly described his family as "we didn't talk a lot about our problems, not a big social family, didn't touch (e.g., hugs, affection) each other a lot." This culture stemmed from his father's abuse towards the children, and Mr. Kelly's mother; as well as his father's prohibitive stance on emotional expression, aside from anger. Mr. Kelly described his father as dominant within the family structure, "everybody played a certain position and dad was in control and in charge of everyone's position." His father was an "angry individual" who was very sensitive to perceived ingratitude. Thus, his father would become angry, "when he felt unappreciated, when he was expecting certain things...he had a real short fuse, he'd tell you to do something and he didn't like to tell you twice, would knock you upside the head." He stated, "if the grass wasn't cut or the tools were left out, he would haul off and hit me with something, or cuss me out...would use a hose, rake, whatever was handy at the time, when he flew off the handle." His father "would catch me in the shower, he would whip me, use a belt, I would holler...dad didn't let things go, and he hated when I ran from him...I knew if I ran, it would be worse, he wouldn't forget." Mr. Kelly described his home life as "on edge...I couldn't do nothing right, dad would fly off the handle and hit me with anything in arms reach..."

His father worked second shift, arriving home from work around 12:00 a.m. Mr. Kelly described he was frequently awoken out of sleep in a violent manner by his father, if he came home to something that was not in place. He "would get a rude awakening when Pops came home, if something wasn't done, started hitting me with a belt when still asleep, yelling, when chores were not done or tools left out in the yard..." For example, "if dad expected something done and it was not done, he took you out of bed and made you mow the grass in the middle of the night... he was just always angry." He stated "if the tools were left out, and dad came home, he snatched me out of bed, beat the hell out of me, snatch me by the back of the neck...got used to it after a while, he'd knock the hell out of me." Thus, during his childhood, Mr. Kelly "would stay awake to gauge dad's mood, I wanted to be prepared, I didn't like the wake-up call."

Of his injuries from the abuse, Mr. Kelly stated, "I got a lot of cuts and bruises, welts, might bleed from a stick or switch, no broken bones though." He told his teachers "that I took karate, that's where I got the bruises, and he wouldn't beat you in the face, it was back and arms..." He never told his teachers or other adult, as "dad said 'you want to see abuse, go ahead.' "

Mr. Kelly also related abusive incidents that were more psychological in nature. He recalled one occasion when his father "handed me a pair of scissors and made me cut the grass, said 'if you don't appreciate the lawn mower, you have to use a pair of scissors.' " During another incident, he "scared me with a gun, threatened me with a 45 because I was messing with his sword, he threatened to shoot me, put it up to my head. And he would get upset if he thought you were lying to him, if you lie, that made it worse." Mr. Kelly reported another incident involving an ant bed. He stated, "I was kicking the ant bed to see what would happen, and dad saw me and made me stand in it, and I got bit all up and down my legs, it was either stand there and get bit or have something worse from him. He said 'don't move' so it would behoove me to stand there." He did not recall his exact age, but estimated he was likely between ages 14 and 16.

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He recalled yet another incident when he watched his father shoot puppies “with a .22 [rifle].” He stated “there were too many litters, and dad wouldn’t take them to a shelter.”

He verified the “authorities never got involved,” in the abuse, including social services or law enforcement. He explained the family was relatively isolated, precluding others from knowing about the abuse. He stated “some kids called our house the ‘devil’s house,’ they wouldn’t come to my house, they would say ‘don’t go around that blue house.’” When asked why they said such things, he stated, “because my Pops would holler, it would echo around the hill, it was one of those houses you didn’t go down to, like the crazy neighbors, we didn’t have neighbors come around.” He also stated, “everybody knew my family wasn’t a comfort zone.”

Due to the abuse, at age 13, he “ran away, hitchhiked, and a man picked me up and dropped me off at the Batesburg police station. I told the Batesburg police I was got kidnapped, I felt like I wanted to tell them about the abuse, but they said they wouldn’t talk to me until my mom got there. But I was still too scared in my mind to mention dad” and so he did not make a report. He lied and told his father he had been kidnapped, so as not to get in trouble for going to the police station. He endorsed lying frequently in the home, to avoid beatings.

When asked if his father treated his brother differently, he stated, “my brother was a bookworm, and I worked on cars, and I was the one doing chores...” Mr. Kelly was also “more spirited and bucked more than my brother, my brother was more normal and quiet” and therefore, his father “beat me more.” The abuse “started ever since I remember until age 17.” During the last beating, “dad hit me with a shovel, it was a pivotal point in my life, the bigger I got, the bigger the utensil.” When discussing the abuse, Mr. Kelly stated, “dad was abused too, thrown against a pole by his dad, his mom was also abused by his dad.”

Due to the longstanding abuse in the home, Mr. Kelly had no positive paternal bond with his father. He was very fearful of his father and felt “intimidated by him.” Further, his “dad shut down the communication real quick, would not allow a relationship.” He stated his father “doesn’t like to admit the abuse, he did one time, he wrote me a letter...I don’t blame him for anything he did. I’ve gotten past it, I don’t need an admission from him...”

Domestic Abuse: Mr. Kelly also reported domestic abuse within the household in that “mom got it worse, dad punched her in the face, and that would get us riled up.” He stated “mom suffered in silence so us kids wouldn’t hear, but I saw bruises and marks on her, he would slap mom, backhand mom.” When his father was physically abusive towards him, “mom would come to our aid, but she was afraid of physically getting involved.” His father also “expected certain things of mom, could be sexual...” He recalled on one occasion “dad called me down to the bathroom and told me she didn’t want to have sex and made her tell me, he would holler at her...mom was scared of him, physically and mentally intimidated.” He also stated, “dad would pet mom like a dog, he would be sitting in his chair and would order mom to kneel down and he would pet her on the head.” He was “pretty sure he forced her to have sex, she would come crying out of the bathroom, dad would make her explain to me that she wouldn’t have sex with him, he was very disrespectful to mom.”

Sexual Abuse: Mr. Kelly further reported his father sexually abused his sister, Michelle, for years. During his pretrial detention, he “found out dad was sexually molesting my sister...from ages 11 to 17, I was afraid he would go to prison.” He recalled one fight between his father and his sister, during his childhood, when “dad shot holes in the wall, right above her head, he was threatening her to keep her mouth shut...she came running out and then moved out of the house...” He now believes that incident was related to the sexual abuse.

Familial Abuse Dynamics [Pretrial Interview Memos]: Pretrial interviews with the mitigation investigator document that Mr. Kelly reported the above abuse dynamics prior to trial. From his first interview, on March 11, 1997, the memo noted “his dad has hurt him in the past. Billy said his dad beat the hell out of him whenever he was angry...His dad is quick to react to things. Billy remembers dad hitting him in the head with sticks, pipes, a belt and his hand.” It was noted “he hit Billy so hard one time that it broke the skin on Billy’s head and he had to go to the Lexington Medical Center Emergency Room.” It was also noted, “Dad beats his mom too” and his paternal grandfather was “abusive” to his father.

Other memos from Mr. Kelly indicated, “dad would ‘beat the sh*t’ out of you when he got mad. He would hit him with whatever he got his hands on...with a plumbing pipe, a shovel, fencing and barbed wire. His dad broke the skin on him with the pipe.” It was documented, “dad has a real bad temper. His dad hits mom with his hand. He hits and fights like lightening. His dad hit his brother and sister like that too.” His “dad was out of control sometimes...he’d never take the blame for anything. He would never apologize for anything. He was never wrong and always put the blame on other people...he never showed any emotions other than anger.” With regard to his mother, he reported his father “knocked her around or slapped her. Billy has seen his dad punch his mom in the stomach and the face with his fist...he has knocked her down and kicked her.” In another memo his father would “‘beat the hell out of you,’ holler, scream and threaten you. His father hit with his hand and a belt.”

DEVELOPMENTAL ABUSE HISTORY [Interview Sources]: Multiple collateral sources also reported the abusive dynamics within Mr. Kelly’s family. Data was gathered from direct interviews with the pre-trial mitigation investigator; his father; mother and stepfather; brother; paternal half-sister; brother-in-law; childhood friend; and family neighbor. Data regarding the abuse was also taken from pretrial interview memoranda drafted by the mitigation investigator, and defense team, in preparation for his capital trial.

Former Mitigation Investigator [Examiner Interview]: Ms. Vivian Massey-Hilton was the mitigation investigator on Mr. Kelly’s capital case. She recalled, “something happened with him, as a baby, an injury, something at birth. I do know his sister was abused, and I thought Billy was abused, dad was a very controlling man...a lot of things were done for punishment...the punishments were excessive, belt whippings, physical abuse, dad was very hard on Billy regarding punishment. I remember he told me stories about the punishment, but [per dad] dad did no wrong.” Of his sister, “she said dad abused her, sexual abuse, and gave examples, he abused her the last time on her graduation day.” When asked details about the abuse, Ms. Hilton stated, “dad would take him out to an ant bed and make him sit there while he got bit, but dad said that was a lie. And dad controlled mom and mom would not say anything.” As a teenager, she believed Mr. Kelly was “trying to make his way, he made poor choices and then got punished and did not understand why he got such harsh punishment...”

Mother [Interview Memos]: Despite several interviews with the pre-trial team, his mother did not disclose much information about the abusive dynamics, due to his father's stance on cooperating with the defense. Multiple memos indicated Mr. Kelly's father was adamant, and even threatening, that the family not speak with the defense team for fear of exposing the family's negative side. Due to his father's domestic abuse, his mother was particularly vulnerable to this demand. For example, during one of her later interviews in June 1998, she was "very emotional, cried several times...stated that she was afraid that information was going to come out during this trial that would tear her family apart." At another point, she "became very upset and stated that this background search and investigation will tear their family apart." She also "admitted she lied when she said her family had not received counseling from mental health." *[This counseling was reportedly due to Mr. Kelly's father abusing his sister].*

Mother and Stepfather [Examiner Interview]: An interview with Mr. Kelly's mother was attempted by this examiner in December 2019, at the LMC Extended Care Center. At the time, she was 72 years old. Her husband, Wendell Amick, age 69, was present for the interview. Mr. Kelly's mother had been married to Mr. Amick for 17 years, since 2002. In January 2017, she suffered a debilitating stroke, which severely compromised her functioning.

During the interview, it was apparent that his mother could not verbally communicate. Attempts at nonverbal communication (pointing to 'Yes' or 'No' signs) were also unsuccessful. However, her demeanor was pleasant, with good eye contact. Per her husband, she understood what was being asked, but could not respond. When asked if Mr. Kelly's father physically abused Mr. Kelly, she suddenly became overtly distressed, contorting her face, and began crying. This reaction seemed in direct response to the questions about Mr. Kelly's history of physical abuse by his father. Of Mr. Kelly's father, her husband stated, that in the years prior to her stroke, "Julia would say he was very mean and always screaming, bunch of screaming and shoving and hitting." *[Mr. Kelly's mother passed away in May 2021].*

Father [Interview Memo]: Mr. Kelly's father, Michael Kelly, Sr. was interviewed in April 1997, by the mitigation investigator. He discussed his own family's trauma history, reporting his mother was an "alcoholic," with episodes of infidelity, which prompted his father to leave the family. A contentious divorce followed, with neglect of the children's basic needs, resulting in poverty. Regarding any abusive treatment of his children, to include Mr. Kelly, his father acknowledged he was "heavy handed" and that "they became afraid of me." He would not give further detail. The memo noted, "According to Mike, he believes the defense team will try to destroy their family by saying that Billy was abused. Mike stated that he wore the children out when there was a good reason" but denied any abuse. He "will not allow the defense team to destroy them [the family] to protect him [Mr. Kelly]."

Father [Examiner Interview]: During the present evaluation, his father stated he was the disciplinarian of the family. He would "wear their a** out" clarifying "whippings" for any misbehavior from Mr. Kelly or his brother. During the course of this conversation, he alluded to his own history of childhood physical abuse, stating his father would repeatedly hit him in the head "to keep me from having a pointy head." When asked if he believed Mr. Kelly was afraid or intimidated by him due to the physical discipline, he responded, "I think all kids are scared of their parents." *[His father was overtly defensive, irritable and short when discussing the subject of 'discipline,' and had very little tolerance for this line of questioning].*

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Brother [Examiner Interview]: When asked about their father's treatment, Mr. Kelly's brother teared up immediately. He stated, "it was tough, dad had a lot of anger issues, he had a bad childhood and he would take it out us. As soon as I could, I got out of there, left with the clothes on my back, and joined the military." *[His report was confirmed by his school records which indicated he was working with a military recruiter as early as February of his senior year].* He described the abuse as "dad had a leather belt, used belt on skin, I still have some scars just above my pants line, above my waist, on my back, I can still feel them, I don't like to dwell on the memories." *[His brother was crying heavily as he related this information].*

The frequency of their father's abuse "varied, could be once a week or go for a while, you just didn't want to do anything to tick him off...dad would treat it as discipline, but it was hard...one time Billy and I were throwing things, and I accidentally cut his eye and "dad kicked me so hard I fell over and landed on the ground." He also stated, "If we did something while he was at work" then when he came home at midnight, "he pulled us out of bed, spanked and whipped us, out of our sleep in the middle of the night, you never knew when it was coming." Michael stated, "I tried to run away once, and he pulled out the shotgun and shot it in the air, and said 'get back here' and gave me a whipping." The whippings caused "bruises and welts, mom would have to hold ice on them." He noted, "dad was careful not to hit us anywhere that could be seen."

His brother independently recalled details of their punishments, including "an ant hill, being forced to stand in an ant hill, ants crawling up your leg and biting you. We also had to cut grass with a pair of scissors...shoved in the ground and made to do it." He reported "name calling, all the time, he made you feel worthless, putting you down, making sure you felt like crap. I wanted to go to school year round" in order to be away from home. He recalled when Mr. Kelly was around age 15, "he hitchhiked to get away from home [due to the abuse], and we thought he was missing..."

Michael also described their father's violence towards their mother, and that she was unable to intervene or stop the abuse. He stated, "there was not much mom could do, dad hit her and beat her. I've seen it, dad was beating mom, as in fists. I've seen her down on the floor, mom was frightened of him, too scared to call the police. I begged mom to get away from him, go to a women's shelter, you don't have to put up with him, and she finally left." He stated, "we were pretty intimidated by dad, afraid he would kill us, he had threatened to kill us if we ever said anything...and I was always afraid dad would kill mom. None of us could say anything, we were all threatened, he was dominating, we felt powerless." He later stated, "dad was "definitely intimidating and made you feel like s**t, walking on eggshells, an explosive a**hole."

Their father "treated us the same" with regard to Mr. Kelly, but "Billy was more gullible, wanted to please and be liked, he was easily influenced..." He believed Mr. Kelly's "adolescence was rougher than mine, I learned what not to do to piss dad off, but Billy would get in more trouble with dad, he didn't learn very well." Mr. Kelly "also caught more of dad's abuse when he was the only kid in the home." His brother further noted, that, before he was born, "dad went through counseling because of issues with Michelle, he sexually molested Michelle." His brother stated he witnessed this abuse, "he [dad] was forcing her to give him a blowjob, I was young at the time, she was a teenager still at home." He did not know if their father also sexually molested Mr. Kelly, "I don't think he did," but stated "Michelle was worried about it."

His brother stated the last time he went to the family's home was Christmas of 1995, just after he joined the military. During the visit, his father "yelled at me, came out yelling and screaming, 'stupid' 'sorry f**ker...' and I realized I didn't have to ever come home again..." He finished his military career, and moved as far away as he could, to Washington State. He does not have a relationship with their father at present. Regarding lasting effects of the abuse, Michael stated, "I was definitely hanging on to anger for a long time, could not express it, had to repress it, act happy...and I learned what not to do as a father."

His brother was "in San Diego at Naval training school" when the homicide offense occurred. During the time surrounding Mr. Kelly's capital trial, "I was pulled into a room and asked questions [about the family] and dad said 'don't drag everybody down' to convince me not to say bad things about him. He intimidated me...I was very much scared, terribly intimidated by dad." Thus, he did not make a statement regarding the abuse, and the family's abuse history did not come out at sentencing. *[His brother was again very tearful at this point in the interview].*

Maternal Half-Sister [Interview Memo]: Mr. Kelly's sister, Michelle Kelly, was interviewed by the mitigation investigator several times prior to his trial. In her first interview [April 1997], she reported their father was "very verbal and very abusive...high temper...a lot of yelling...whipped her and left bruises on her...was severe with the punishment." He has also "hit" their mother. Per the memo from June 1998 she related that Mr. Kelly's father has told their mother that if she signs the release forms for the defense attorneys, then she [their mother] would have to leave the home. He "has always used that kind of way to control all of them. He found ways to threaten and frighten them." The memo indicated that Mr. Kelly's father "had always been threatening to her mother and the children...[and] suddenly explodes for no reason" referring to his "rage" as "so scary." She has been afraid he would kill their mother. She also reported her stepfather "beat" Mr. Kelly. From the beatings, they had "black and blue bruises on their bodies...he would hit, get madder and hit harder."

In her June 1998 interview, she reported a history of sexual abuse by Mr. Kelly's father [her stepfather]. He began fondling her prior to age 11, and at age 11, "raped her." The "sexual abuse continued up until the night she graduated from high school" after which she "left home." Her mother "did nothing" even though she told their mother about the abuse. Eventually, the family went to counseling, however, the abuse did not stop. The memo indicated that "her mother got other women to have sex with Mike thinking that it would make Mike leave Michelle alone...but the abuse of Michelle didn't stop." If she did not comply, then he "would scream, yell, throw things and whip her." He "also told her he wanted her to have his baby." *[She stated in this memo that Mr. Kelly was not aware of the sexual abuse].* Around the time of his trial, she told their half-sister, Ms. Maude Lacoy, and Mr. Kelly became aware.

Father's First Wife [Interview Memo]: His father's first wife, Francis Ingells, described a turbulent marriage to Mr. Kelly's father, with physical altercations, possessiveness and verbal abuse, even reporting that he shot at her mother on one occasion. She also lived with Mr. Kelly's paternal grandmother for some time, who she described as an "alcoholic" and engaged in inappropriate and volatile behaviors.

Paternal Half-Sister [Examiner Interview]: Ms. Elizabeth Maude Lacoy is Mr. Kelly's paternal half-sister. She is the child of his father's first marriage, and is ten years older than Mr. Kelly. At the time of her interview with the examiner, she was 50 years old. She worked as an RN in Massachusetts, and was earning her Nurse Practitioner's degree.

Her parents "divorced when I was one and a half years old, then my dad married Julia [Mr. Kelly's mother] and she had a child [Michelle] from a previous marriage." Her parents "did not have a good marriage" and when she was older, her mother "told me he [Mr. Kelly's father] was abusive, that she left an abusive household." She was told that "my grandmother and mother packed me up and we left, and moved to Massachusetts" with urgency to leave the relationship with Mr. Kelly's father. Ms. Lacoy and her mother eventually returned to South Carolina, and resided in Columbia. Thus, when she was in the 6th, 7th and 8th grades, Ms. Lacoy saw their father in South Carolina, "on the weekends, or during the summer...then left for Massachusetts for good after the 8th grade."

She described her father as "could be jovial, but also very intimidating, he was an impressively large man, he was scary when he was angry, and he was a yeller, very quick with his temper." He "would give tongue lashings, full of venom and anger." She recalled their father hitting them with a belt, but believed there was more abuse "when I wasn't there." Ms. Lacoy also stated that Mr. Kelly's sister, Michelle, "told me she was sexually abused, told me when she was an adult, when my daughter was an infant, it was just after Billy went to jail, we talked at that point." She noted, "I was very small, late to develop, but Michelle developed a lot earlier" which she believes made Michelle more of a target.

She recalled Mr. Kelly's mother "ran the household, didn't work outside of the home, they were planting, harvesting and canning, they built that house from dirt." She also recalled his mother was "intimidated, scared of dad, he definitely would slap her, the slapping and yelling and fighting, but she never called the police on him." Ms. Lacoy also recalled Mr. Kelly's mother hitting her on one occasion, "Julia slapped me across the face, and I knew the kids got slapped, and with a belt...you just learned to keep quiet, you were seen and not heard..." Ms. Lacoy stated that their father "didn't allow Julia [Mr. Kelly's mother] to grieve after Billy was arrested, "he was yelling at her because she was crying and grieving about Billy, and he said 'just get over it' and slapped her, I heard it right through the wall." She explained she was staying with them at the time. Of his mother's grief, Ms. Lacoy stated "dad did not tolerate emotion, you did what you were told, didn't question it." At present, Ms. Lacoy does not have a relationship with their father. She last saw him 18 years ago, and they do not speak, "every time I tried to talk with him, he would get angry and say his kids deserted him, he's just angry."

Paternal Uncles [Interview Memos]: Mr. Kelly has three paternal uncles, who were interviewed prior to his capital trial. His uncle James Kelly indicated a history of "estrangement in the family," with Mr. Kelly's father "angry with him" for speaking with the defense team. He described Mr. Kelly's father as "too secretive about things." Of their upbringing, he reported a "dysfunctional family" with an alcoholic and neglectful mother, and a physically abusive father, who was a "mean drunk." He provided examples of whippings and beatings from their father, and that "he had to run away from his daddy to keep him from killing him. He got so mad one time that he broke a car window with his hands and cut them." Domestic abuse towards his mother was also prevalent in the home.

James reported having seen Mr. Kelly's father exhibit the same behaviors as their father. He saw him throw a plate of food at Mr. Kelly's mother and 'slap the hell out of her.'" He saw Mr. Kelly's father "kick Billy in the butt with his boots for practically nothing" and "hit Billy in the head for no reason." He noted that "when his dad would get angry with him for something, Billy would try to get away from him, but Mike would usually hit him with something." It was noted Mr. Kelly's father has "slapped, smacked and hit the children...and would yell at them until they flinched because they were so afraid of him." He "views his brother Mike as a violent man..." He related that "Billy got very upset when he saw his dad kill some puppies after the mama dog got pregnant again." Of Mr. Kelly, he believed when he was expelled from high school, "it made Billy feel like nothing...he was viewed that way [troublemaker] and he became that way...Billy has very low self-esteem and sees himself as a screw up."

His uncle Andrew Kelly also indicated estrangement within the family. He described a "dysfunctional family" growing up with Mr. Kelly's father. Their mother committed repeated infidelity, which resulted in their parents' divorce, and instability. He reported their mother "physically and emotionally abused" all of her sons. She beat them with a belt, leaving "whelps" which resulted in Mr. Kelly's father [Mike] being a "physical abuser." Per the memo, "he [Andrew] said Billy is a victim of Mike's abuse and that cycle has to be broken."

His uncle Arthur Kelly was living with Mr. Kelly's father at the time of his 1998 interview. He is an adopted brother of Mr. Kelly's father. Prior to that time, he had little in-person contact with the family. He reported Mr. Kelly's father provided well for the family during Mr. Kelly's development. He denied seeing any physical discipline or abuse.

Paternal Aunt by Marriage [Interview Memo]: Charlotte Kelly married Mr. Kelly's paternal uncle, James Kelly. In her pre-trial interview [May 1997], she reported Mr. Kelly was "abused by his father" and that "his mom is a battered wife." She had witnessed Mr. Kelly's father "beat Billy. He kicked Billy and verbally abused him." She reported Mr. Kelly's father "would get mad for no reason at all and scream at family members." He has "beat Julia [mother] in front of Billy and the grandchildren." She "stated that Billy is deathly afraid of his father's outbreaks and it shows. She believes Mike was always harder on Billy than the rest of the children." She stated "people are afraid of Mike Kelly including his wife Julia...Mike is a maniac and out of control." When she heard about Mr. Kelly's arrest, "she blames his father for it because of the brutality he imposed on Billy and the family. She stated that the only way Billy knew how to handle conflict was with violence which he learned from his father."

Paternal Cousin by Marriage [Interview Memo]: In her pretrial memo, his paternal cousin, Daniella Presser, stated she and Mr. Kelly "grew up together" and considered him "close, like a brother." On one occasion she saw Mr. Kelly's parents "fighting" and when she asked him about it, "he told her that his dad had 'beat him' and that he'd get in trouble for it if he said anything." Per the memo, she believed "Billy was very afraid of his father and he always tried to get his approval so Mike wouldn't be mad at him" even if it meant he "would lie about a situation to his dad." Ms. Presser observed Mr. Kelly's father's anger, when he would "scream and yell" and that "he frightened her so much that she just wanted to get away from him." She believes "there was physical abuse in the family" and that "Mike is an abusive man and he is afraid people will know that he abuses his family." She indicated Mr. Kelly's father "would get furious with him" when Mr. Kelly attempted to talk and "explain things" to his father.

Maternal Aunt, M.H. [Interview Memo]: Ms. Margie Hogg, is Mr. Kelly's maternal aunt, his mother's oldest sister. She was interviewed by the defense team in June 1998, prior to trial. She described Mr. Kelly's father as a "stern," "hard" and "mean man." He was a "firm disciplinarian ...did a lot of yelling." She denied having seen Mr. Kelly's father hit the children or his mother. He is "very impatient" and "if he wants to yell, he does it." She reported his father "had a terrible family life when he was growing up" due to his mother's alcoholism, father's abandonment and neglect.

Maternal Aunt, M.H. [Examiner interview]: Ms. Hogg was also interviewed by the examiner during the present evaluation. Regarding Mr. Kelly's childhood home, she stated his father "grew marijuana" and their "living conditions were disgusting...no running water, no bathroom, before he added to it." She also described "animals in the house, garbage/trash in the yard, the living conditions were bad." She described Mr. Kelly's father as "authoritarian, he had the authority and what he said had to go." The "family operated out of fear" and believed Mr. Kelly's father "cut them off" as the family "lived out in the middle of nowhere." She reported domestic violence in the home, stating that Mr. Kelly's mother "lived in a lot of fear, she had lots of 'falls.'" Eventually, she "couldn't walk from the 'falls.'" She stated that on one occasion, Mr. Kelly's father "threw her out of a moving car" during an argument.

She also knew of Mr. Kelly's father's physical abuse towards the children. Ms. Hogg "never saw Mike strike the children," however, she heard many stories from his cousins over the years, prior to Mr. Kelly's arrest. She stated Mr. Kelly's father "spoke mean" and "we all knew he was beating the boys, he beat Julia and he was beating the boys...he beat those boys if you didn't do what he said...we knew what was going on and couldn't do a darn thing about it...we knew the boys weren't okay." She indicated the abuse "was kept hidden, that's how they [abusers] operate...it was so insidious and so well-hidden...because an abuser hides it and doesn't want anyone to know." She stated "the cousins" would tell her this information, and that Mr. Kelly's mother told her after she was no longer married to Mr. Kelly's father. She also reported knowledge of Mr. Kelly's father sexually abusing Mr. Kelly's sister, Michelle. Her daughter was very close with Michelle and related this abuse, and that "Julia had to go out and get women for him in order to keep him from coming on to Michelle."

For years, she and her sister "tried to get Julia to leave...we tried talking and all kinds of things to get Julia out of the home, but she was an abused person and was stuck, no strength, so brow beaten. Mike was very verbally abusive and put her down, and after a while you just start to believe it." She noted that "Julia could never leave Mike, she couldn't break free from him, and eventually he left her." In regard to Mr. Kelly, she believes the abuse "escalated as Billy got older" when he began challenging his father, as is typical of teenagers.

Maternal Aunt B.K. [Examiner Interview]: Mr. Kelly's maternal aunt, Ms. Brenda Khriel, was also interviewed by this examiner. She described Mr. Kelly's father as "very abusive, he made my sister feel like she was useless and couldn't fight back." His father "hated women, it was always a power struggle, he had to be in charge, number one, no one could tell him anything other than what he believed..." She reported knowledge of domestic violence as well as physical and verbal abuse, "yelling and bad profanity," in the home, towards the children. She related one example of "he shoved Julia out of a moving car for punishment, for something," and that "he made Billy stand in an ant bed."

Ms. Kiehl stated “the family was very scared of Mike, and dependent on him.” His mother “didn’t finish high school...had a limited education and no transportation...had mediocre jobs and was dependent.” Ms. Kiehl explained that Mr. Kelly’s family “lived in the middle of nowhere, in the middle of chicken farms, they had no electricity or water for a while.” She agreed Julia would have been isolated from any support system due to the rurality of their environment. She also stated Mr. Kelly’s father “sexually abused Michelle, and she turned against her mother, accused her mother of not stopping it.” She stated “we tried to get Julia away from him but he had so much control over her.” She clarified that these efforts occurred when the children were still in the home. They tried to get her to leave “because of the way she talked and looked, and information from Michelle, a certain feeling, he was a very mean man.” She stated Mr. Kelly was exposed to “so much hatred, bitterness and abuse, not love.”

Ms. Kiehl believes the physical abuse of Mr. Kelly may have escalated as he matured, “as he grew older, and was a teenager, he challenged his parents and the reaction was so abusive.” She learned of the abuse through his cousins and other relatives over the years, and “when Julia broke free, she mentioned these things.” She believes Mr. Kelly “was reacting when he went into a rage, being told he wasn’t any good.”

Former Brother-In-Law, D.M. [Interview Memo]: Mr. Kelly’s former brother in-law and father of his sister’s children, Danny McCormick, was interviewed in 1997 by the mitigation investigator. He believed Mr. Kelly’s “problems came from the way his daddy treated him. Mike Kelly treated Bill and Michael [brother] like dogs. Mike Kelly would get mad, fly hot, cuss those children out and then jump on them and beat them...Mike was so rough on the children that they were scared of him and wouldn’t talk to anybody about what he did.” He also reported that Mr. Kelly’s sister, Michelle, “had actually told him that Mike began molesting her right after he and Julia got together. Michelle was about six or seven years old and that it had continued all during her lifetime.” She also “admitted to him that Mike had raped her when she was in high school.” When he confronted Mr. Kelly’s father “he pulled a gun on him [Danny] and threatened to shoot him.” He also recalled Mr. Kelly’s parents drank beer heavily, “two to three cases of beer a week” and that Mr. Kelly’s father “drinks beer with his breakfast.”

Former Brother-In-Law, M.C. [Examiner Interview]: Mr. Kelly’s sister second husband, Mr. Mark Cumbee, was interviewed by the examiner. He began dating Mr. Kelly’s sister in 1995, prior to the homicide offense, and “we were together five years, married three or four.” He lived on the Kelly family property during that time. Thus, Mr. Cumbee was exposed to Mr. Kelly’s family through his relationship with Mr. Kelly’s sister, during which time he directly witnessed abusive dynamics within the family.

He described “the daddy was very abusive and mean, the daddy was abusive to all of them, the wife, and all three kids.” He saw Mr. Kelly’s father “hollering and raising hell, going off on Michelle.” He again reiterated “the dad was very abusive” and would become “psycho-angry, you could see it in his eyes, he would be cursing and hollering, and laughing at you, but he was very smart.” The family property “was out in the middle of the woods, you could scream and scream and get no help.” He believes Mr. Kelly “got more abuse than any of them, he was the only one left at home,” when his siblings moved away. He also believes Mr. Kelly “never got enough attention or the right kind of attention” from adults.

Mr. Cumbee further stated, “Michelle told me about the sexual abuse...and I think the mother knew but she was too scared.” He described Mr. Kelly’s mother as “crazy” but could not elaborate. He stated “the dad was abusive to the mom, raising hell, would put his hands around her throat.” He believed “his mother was scared of his dad, if he got mad, and raised hell, scared he would hit on her.” He also knew that Mr. Kelly’s paternal grandmother was “very abusive to her boys,” meaning Mr. Kelly’s father and his brothers.

Childhood ‘Best Friend’ [Examiner Interview]: Due to Jesse Johnson’s frequent visits to Mr. Kelly’s home during their childhood, he was familiar with Mr. Kelly’s father, and the abusive dynamics in the home. He described Mr. Kelly’s father as “very hardnosed, no weakness was allowed...an Archie Bunker type guy...rough around the edges, more when he drank, verbally aggressive when he drank, it was his way or the consequences.” The “consequences” were “get your butt cut, with hands or a belt.” Mr. Johnson witnessed this physical abuse. He stated Mr. Kelly’s father would “punch Billy, in the side or ribs, spankings with a belt, I saw it happen, it would start with the name calling, and if his dad heard crying, he would say, ‘I’ll give you something to cry about, calling him a ‘girl’ or ‘wus’ and ‘I’ll make you cry.’” He stated Mr. Kelly “was a scrawny kid” and that Mr. Kelly “would be on the floor, fighting his dad, defending himself...he got immune to it.” He also recalled Mr. Kelly’s father “would come in at night and snatch the covers off [their beds], call them names, and get your butt busted, cleaning the floor, taking out the trash, do whatever he felt like needed to be done.”

Other punishments included “standing in the corner for hours, or yard work, his dad would mess it up on purpose, and make you do it again.” Mr. Kelly was also made to cut grass with a pair of scissors. Mr. Johnson stated, “his dad came home and said ‘did you cut the grass?’ and went to look at it, and immediately started picking out spots. He would say ‘no dumba**, this isn’t right, you didn’t do it like I told you to, go get the scissors and do it right.’ ” He stated, “Billy was on his hands and knees, crawling across the grass, cutting the grass with scissors...” Mr. Johnson confirmed he “was there and saw this” happen. Another punishment Mr. Johnson recalled was “that his dad held him down and held him on an ant hill...grabbed him by the neck, took him outside and held him down in the ant mound, and dared him not to cry.”

He recalled Mr. Kelly’s father was “aggravated a lot, irritable, angry, never happy about anything, a lot of yelling, screaming, name calling and cursing.” Mr. Johnson recalled verbal abuse in that “his dad would call him stupid, dumb, a dumb***, bum, no talent...but he did have talent, was really good at playing the sax.” Mr. Kelly played saxophone in the high school band, “alto sax, tenor and baritone, he was musically inclined,” however, his father “would never come to the concerts.” He also noted “all of the verbal abuse was focused on Billy” versus his brother.

He described Mr. Kelly’s mother as “very submissive and obedient,” and he witnessed an incident of domestic violence. Mr. Johnson “saw his dad hit his mom one time. She was doing dishes and his dad was ready to eat right then. His dad would sit in the recliner and she brought everything to him, food, beer...and one time he knocked her down when she didn’t bring it fast enough.” Mr. Johnson witnessed this one instance, and knew this kind of violence went on in the home. Mr. Johnson recalled that Mr. Kelly “was always afraid his daddy would kill his momma, and he always wanted to hurt his dad” due to all of the abuse. His “mother never stepped in, she just cried for them.”

Mr. Johnson further stated that Mr. Kelly's father would call Mr. Kelly's mother names, "b***h, stupid, ugly, and he would not allow her to have a job, she tried to do housework on the side, and he made her quit the day he found out, 'I'm the man, you're the woman, you do what I say.' He controlled all the money, and he kept strict track of it." He observed that Mr. Kelly's family had "very stereotypical roles."

Mr. Johnson stated, "when his dad wasn't there [at work], everything was fine," but "if his dad said something, then that's how it happened...the boys had to do it right then or get some form of punishment, they got hit frequently, but more so verbal abuse. I think that's why Billy had a hard exterior." He recalled Mr. Kelly's brother Michael, "stood up for him, a couple times, but he was always trying to get out and get away...tried to be away from the house, and prepared himself to leave." He noted Mr. Kelly's brother joined the military as soon as he could. When Mr. Kelly was older "he worked two or three jobs...he lived at work, he picked up shifts all the time, so he wouldn't have to go home...he was working and going to school. He gave his money to his mom out of his check and wanted her to spend it on her, and hide it from his dad."

Mr. Johnson stated, "Billy always wanted his dad's approval, but he never got it, any emotion that wasn't a man's emotion wasn't allowed. He wasn't allowed to say 'I love you' to his dad, and he had to keep it a secret from saying it to his mom, because his father would say, 'men don't do that.'" He believed Mr. Kelly "didn't know how to express emotion because he could never show them, he was never allowed to show emotion."

Family Friend [Interview Memo]: Ms. Linda Jeffcoat, a family friend, was interviewed in 1998, by the pretrial mitigation investigator. She was a longstanding friend of Mr. Kelly's mother. She last had contact with the family approximately ten years prior to her interview. She described Mr. Kelly's father as "dependable and helpful" with her sick husband. However, she also described he had a "rough life growing up and she thinks he developed a mean side from that....he had a bad temper and could snap in a minute...His children seemed to be afraid of him. There was a mean side to him and he had a bad mouth." Ms. Jeffcoat noted Mr. Kelly's father "did not want her [Billy's mother] to work and he controlled her so she didn't." She described him as "too strict on all the kids and they caught it rough...it seemed to effect Billy a lot. She thinks Billy's problems had to do with Mike's ways toward him." She indicated that when Mr. Kelly was "8 or 9," he "stole money out her wallet." However, "she didn't tell Mike because he was so strict on Billy. He could snap at nothing and often beat the 'heck' out of the kids."

Former Neighbor [Interview Memo]: In 1998, defense investigator, David Mac Dougall interviewed a former neighbor of the Kelly family Mr. Edmond Wilson. The memo notes that "Julia [mother] seems scared around Mike [father]." Mr. Wilson referred to Mr. Kelly's father as "half damn crazy" and a "wacko." He "has heard shots coming from the area of the Kelly home and has heard Mike Kelly yelling and cussing." After Mr. Kelly's arrest, Mike Kelly [father] expressed to Mr. Wilson that "Billy's defense...will go after him." Mr. Wilson "denies knowledge" of physical abuse within the family, as "the Kelly family kept to itself."

Former Neighbor [Examiner interview]: Mr. Roger Mitchell was Mr. Kelly's neighbor during his childhood, and was interviewed by this examiner at his home near Aiken. He recalled Mr. Kelly as a "good little boy, no problems, he always helped, anything I needed done, never knew him to be a bad kid."

Name: KELLY, William
Date of Birth: [REDACTED] 1978

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He recalled Mr. Kelly's father had a "bad attitude all the time" who "always screamed and hollered at him [Mr. Kelly] all the time." He recalled "Danny [sister's former husband] told me about the fire ants, made him stand in an ant bed." He also recalled on one occasion, that Mr. Kelly's father "kicked him off the ground" describing a violent kick. In addition to the physical abuse, Mr. Mitchell stated, "verbally, he was terrible to the boys." He "mistreated those boys," referring to Mr. Kelly and his brother, Michael.

Mr. Mitchell also "saw him slap his wife, he was terrible to his wife..." He observed Mr. Kelly's father "slap his wife, after a dinner, in front of people, he was a terrible man." He recalled Mr. Kelly's mother as "very timid" and that Mr. Kelly's childhood was a "bad situation for him." Mr. Mitchell further recalled that Mr. Kelly's father "shot a dog under my house" and "wouldn't doubt" that his father would have shot Mr. Kelly's dog. Further, Mr. Mitchell "heard he molested Michelle until she was 18 or 19." He recalled thinking at the time of Mr. Kelly's capital case, "if he killed anybody, it should have been his dad, his dad should have gotten hurt" due to his father's abuse of his family.

'MILLER / AIKEN' Factor Analysis: As Mr. Kelly was 17 years and seven months at the time of the homicide offense, an analysis of the 'Miller' factors per *Miller v. Alabama*, as outlined by the South Carolina Supreme Court in *Aiken v. Byars*, was conducted. Mr. Kelly's historical and case circumstance was applied to these factors. The above historical data per interviews and collateral sources, in addition to review of the relevant literature, was utilized for the following analysis.

I. Chronological Age and the Hallmark Features of Youth – "immaturity, impetuosity, and failure to appreciate risks and consequence..."¹

'Youth' or the time period of adolescence extends from approximately age 10 to age 19 (U.S. Census Bureau and World Health Organization); and per some agencies, up to age 21 (American Academy of Pediatrics and the U.S. Department of Health and Human Services).² This period is characterized by certain 'hallmark features,' which increase the likelihood of making poor decisions and engaging in risky and illegal conduct. As a result, an adolescent's chances of perpetrating actions harmful to himself or others are also increased. Such features are disproportionate in adolescents as compared to adults, and include impulsivity and reactivity; recklessness; risk-taking; decreased ability to regulate emotions; difficulty considering long-term consequences, with an overvaluing of immediate rewards; and psychosocial immaturity in reasoning, decision-making and judgment.³

¹ *Miller v. Alabama*, 57 U.S. 460, 477 (2012).

² Alexa Curtis, *Defining Adolescence*, 7 J. ADOLESC. FAMILY HEALTH 1, 9 (2015).

³ Brief for the AMA and the AACAP as Amici Curiae in Support of Neither Party, *Miller v. Alabama*, 132 S. Ct. 2455 (2012).

The predominance of these features during adolescence stems from the nature of adolescent brain development.⁴ Specifically, the brain continues to develop through one's mid-twenties, with the prefrontal cortex the last to mature.⁵ The prefrontal cortex is responsible for 'higher-order' cognitions, including reasoning, judgment, planning, organization, impulse control, emotion regulation, and rational decision-making.⁶ Therefore, due to the protracted maturation of the prefrontal cortex, adolescents are less able to implement these skills than adults, particularly when under stress or increased emotion.^{7, 8}

Further, studies indicate that adolescents are more reward-sensitive, particularly to immediate reward, and without the cognitive 'brakes' necessary for mature behavioral self-regulation. In other words, "the motivational system, which underlies risk and reward-based behavior, develops earlier than the cognitive control system, which regulates such behavior."⁹ Indeed, "much of what distinguishes adolescents from children and adults is an imbalance among developing brain systems."¹⁰ Therefore, adolescents "may be less able to deploy their cognitive capacities as effectively as adults in exercising judgment in their everyday lives when decisions are influenced by emotional and social variables."¹¹

Such compromised decision-making is due to a lag in 'psychosocial maturity' as compared to adults, implicating the prolonged development of neurocognitive areas responsible for self-regulation, future orientation, and perception of risk.¹² Although older adolescents are generally as cognitively mature as adults, their ability to self-regulate is compromised by stress, emotion, and the presence of salient rewards. They place less emphasis on risk, and discount long-term consequence.¹³ Thus, "whereas cognitive capacities shape the *process* of decision making, psychosocial immaturity can affect decision-making *outcomes*."¹⁴ As such, "adolescents are subject to poor judgment when decisions are highly emotional, when rewards are salient and when the decision is rushed."¹⁵

⁴ Laurence Steinberg, *Should the Science of Adolescent Brain Development Inform Public Policy*, 64 AM. PSYCHOL. 739 (2009).

⁵ B.J. Casey, Sarah Getz & Adriana Galvan, *The Adolescent Brain*, 28 DEV. REV. 62 (2008).

⁶ Harvey B. Milkman & Kenneth Wanberg, CRIMINAL CONDUCT AND SUBSTANCE ABUSE TREATMENT FOR ADOLESCENTS: PATHWAYS TO SELF-DISCOVERY AND CHANGE (2nd ed. 2012).

⁷ Elizabeth Cauffman & Laurence Steinberg, *(Im)maturity of Judgment in Adolescence: Why Adolescents may be less culpable than adults*, 18 BEH. SCI. LAW 741 (2000).

⁸ Dustin Albert & Laurence Steinberg, *Judgment and Decision Making in Adolescence*, 21 J. RES. ADOLESC. 211 (2011).

⁹ Brief for the AMA & the AACAP, *supra* note 3, at 13.

¹⁰ National Research Council et al., *Adolescent Development*, IN REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH 97 (2013), <https://www.nap.edu/download/14685>.

¹¹ Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 5 ANN. REV. CLIN. PSYCH. 459 (2009).

¹² Cauffman *supra* note 7.

¹³ Laurence Steinberg & Elizabeth Scott, *Less Guilty by Reason of Adolescence*, 58 AM. PSYCHOL. 1009 (2003).

¹⁴ *Id.* at 1012.

¹⁵ Elizabeth Cauffman et al., *A Developmental Perspective on Adolescent Risk-Taking and Criminal Behavior*, 100, 109 THE HANDBOOK OF CRIMINOLOGICAL THEORY (Alex R. Piquero ed., 2016).

Thus, youth are aware of the consequences of actions, but due to developing brain function, place more emphasis on the immediate situational reward, and are susceptible to poor judgment when experiencing emotion.

Finally, identity formation “is a core developmental task across the life span that becomes urgent in adolescence.”¹⁶ Longstanding psychological theories support identity formation, to include progressing through identity confusion and crisis, as a hallmark indicator of adolescence.¹⁷ In particular, middle to late adolescence is a time of increasing identity exploration for both genders, with male youth found to engage in overall more intensive identity ‘reconsideration’ as they progress through adolescence.¹⁸ Identity exploration often involves “risky, illegal, or dangerous activities like alcohol use, drug use, unsafe sex, and antisocial behavior.”¹⁹ As described below, Mr. Kelly’s adolescent identity formation was heavily impacted by his father’s abuse, such that he suffered poor self-image, low self-esteem, and struggled to form a ‘sense of self,’ separate from the abuse dynamics.

As he was age 17 at the time of his charges, Mr. Kelly fell within the category of ‘mid adolescence,’ generally defined from ages 14 to 17.²⁰ Thus, he was *categorically* subject to the above ‘hallmark features.’ More *individually*, Mr. Kelly was asked to describe his functioning around ages 16 and 17, versus at his current age of 45. He stated, “I was real quiet, didn’t like hanging out with nobody too much...I didn’t have the confidence to open my mouth as a kid. I can do that now, I’m very verbal.” He was a “jokester a little bit, but generally would fly under the radar, nothing too much to say, was not hanging out too much with peers, too isolated, didn’t have too many friends.” In his decision-making, he “didn’t think about the consequences too much...” He was a “shut down kind of kid, didn’t have insight into myself, not a whole lot of self-reflection, just got angry.” He agreed he could not ‘see himself in the future,’ and did not have long term goals.

Further, multiple individuals who knew Mr. Kelly as a child and adolescent described him as less mature than his chronological age, particularly with regard to social and cognitive immaturity. For example, his father described him as “three years behind... has never been mature;” and “had no leadership” with peers. His brother described him as “gullible...wanted to please and be liked...easily influenced” and a youth who “didn’t learn very well” from past mistakes. His sister described him as “always a little slow and immature for his age” with a poor ability to navigate peer relationships. His sister’s mother described him as “seemed to be slower than most children, didn’t grasp things as quickly as he should have...comprehension of things was slower than it should have been.” His maternal aunt believed he “didn’t always understand things.” His sister’s relative described him as “slow and very naïve...wasn’t quick to excel...loses the connection when you try to explain things to him...” His Boy Scout leader described him as “a little slower than the other Scouts.”

¹⁶ Elisabetta Crocetti, *Identity Formation in Adolescence: The Dynamic of Forming and Consolidating Identity Commitments*, 11 CHILD DEV. PERSPECT. 145, 148 (2017).

¹⁷ Erik Erikson, *IDENTITY, YOUTH AND CRISIS* (1968).

¹⁸ Theo A. Klimstra et al., *Identity Formation in Adolescence: Change or Stability?* 39 J. YOUTH ADOLESC. 150 (2010).

¹⁹ Steinberg, *supra* note 13, at 1014.

²⁰ Curtis *supra* note 2.

Additionally, school personnel, from elementary to high school, strongly depicted a youth who was socially less mature than his peers. For example, many teachers described Mr. Kelly as a “quiet” “reserved” and “very shy” child, who did not socialize with his peers. One explained that Mr. Kelly “may not have had the social skills necessary for one his age.” A high school teacher indicated, Mr. Kelly “just didn’t quite fit in somehow...seemed like a little kid who wanted and needed attention;” while another stated he “was a person looking for a friend.” One teacher observed he “used nonverbal actions to communicate” with his peers, which she found “strange.” Others indicated Mr. Kelly “had to have direction” for comprehension; and engaged in immature sexual references in the classroom.

II. Family and Home Environment – “...the family and home environment that surrounds him - and from which he cannot usually extricate himself - no matter how brutal or dysfunctional.”²¹

Abusive Dynamics: In his family and home environment, Mr. Kelly was immersed in physical and emotional abuse, from a very young age, to 17. Such dynamics were reported by Mr. Kelly; his immediate family members; multiple relatives; and others who knew the family, including Mr. Kelly’s best friend, and neighbors. The nature and severity of abuse was consistent across reports, lending greater validity to the accounts.

Physical and Emotional Abuse: Both pre-trial, and during the present evaluation, Mr. Kelly described ongoing, severe abuse from his father. The abuse consisted of frequent beatings and whippings with objects (e.g., sticks, pipes, belts, a shovel, fencing, wire), which resulted in welts, cuts, and bruises. The abuse was persistent and arbitrary, usually triggered by his father’s perception of disobedience, and fueled by his explosive anger. In addition, his father would often wake Mr. Kelly from sleep at midnight, when returning from work. He would demand compliance with chores, and/or perpetrate abusive acts. Mr. Kelly eventually learned to stay awake through the night so he would be ‘prepared’ and ready for his father. Due to these circumstances, Mr. Kelly described living “on edge,” and that he felt intimidated, and fearful of his father. Emotional and psychological abuse was also reported, in that his father often called him derogatory names; made him stand in an ant hill; shot the family’s puppies when there were too many litters; threatened Mr. Kelly with a gun; and forced Mr. Kelly to cut grass with scissors.

Mr. Kelly reported his last ‘beating’ was at age 17, with a shovel, not long before the homicide offense. He referred to this event as “pivotal,” in that, despite his age, he realized the abuse would not stop if he remained in the home, which fueled his desperation to leave.

²¹ Miller, *supra* note 1.

Pretrial and present collateral sources described Mr. Kelly's father temperament as consistent with Mr. Kelly's reports. They noted he was: "intimidating;" "scary when angry;" "a yeller, very quick with his temper;" "full of venom and anger;" a "physical abuser;" "very abusive and mean;" "definitely intimidating;" "psycho-angry;" has a "mean side, bad temper, could snap in a minute;" "half-damn crazy, a wacko;" "a terrible man;" "get mad for no reason and scream;" a maniac and out of control;" "dominating;" "very abusive;" "an abusive man;" "stern, hard and mean;" "authoritarian;" "explosive;" had "scary rage;" "had so much control;" "a very mean man;" "did not tolerate emotion;" "so much hatred, bitterness, abuse;" very hardnosed;" "rough around the edges;" "aggravated a lot, irritable, angry;" "suddenly explodes for no reason;" and "a violent man."

Sources also described Mr. Kelly's father's abusive behaviors, consistent with Mr. Kelly's reports. He "treated [the boys] like dogs;" "jump[ed] on them and beat them;" "kicked him [Billy] off the ground;" "terrible to the boys...mistreated those boys;" "so rough on the children;" "beat the heck out of the kids;" "verbally aggressive;" "punch[ed] Billy;" "come in at night and snatch the covers off;" "yelling, screaming, name calling, and cursing;" "held him [Billy] on an ant hill;" "kick[ed] Billy in the butt with his boots;" "hit him [Billy] with something;" "smacked, slapped and hit the children;" "yelled at them until they flinched;" "kill[ed] puppies;" was "very verbal, very abusive, high temper;" "hollering, cursing, raising hell;" "verbally abused [Billy]:" "left bruises;" "was severe with punishment;" "found ways to threaten and control;" "beat Billy;" left "black and blue bruises;" "get madder and hit harder;" "forced [Billy] to stand in an ant hill;" "kicked Billy;" "name calling, all the time;" "was beating the boys;" "threatened to kill us;" "pulled us out of bed;" "spanked, whipped us;" and "left bruises and welts." His brother described permanent scarring due to the severity of the abuse.

Due to his father's anger, and brutality, sources reported Mr. Kelly was "very afraid of his father;" was "deathly afraid" of his father;" and "was always afraid his daddy would kill his momma." His brother also noted he was "afraid he [father] would kill us." Others noted the family "operated out of fear;" and "were scared him;" such that they [family] would not speak with anyone about the abuse. Another source described the abuse as "insidious" and "so well hidden" due to the control by Mr. Kelly's father.

Of note, both pretrial, and during the present evaluation, Mr. Kelly's father was very resistant to speaking about the family, or anything resembling abuse. However, in his pretrial memo, he reported being "heavy handed" with his children, and that "they became afraid of me." During the present evaluation, he endorsed "whippings" and that he would "wear them [children] out."

Domestic Violence: In addition to his father's physical and emotional abuse, there was evidence of domestic violence in the home. Mr. Kelly directly witnessed this, in that his father "punched," "slapped," and "backhanded" his mother, which left bruises and marks. His father also reportedly degraded her (e.g., "would pet her like a dog."); and forced his mother to explain to Mr. Kelly why she would not have sex with his father. Multiple sources support Mr. Kelly's father's abuse toward his mother, by "slapping her;" "beat her;" "hit her and beat her;" pushed her out of a moving vehicle; "put his hands around her throat;" "knocked her down;" "threw a plate of food at her;" "slap[ped] the hell out of her;" and referred to him as controlling in the relationship. Sources described Mr. Kelly's mother as a "battered wife;" "scared;" "an abused person...brow beaten;" "very submissive and obedient;" "intimidated, scared;" and "frightened of him."

During his father's interview for the present evaluation, he described a contentious marriage, with frequent verbal and physical fighting, and reported having considered using a knife to harm Mr. Kelly's mother.

Sexual Abuse: Finally, there are multiple reports that Mr. Kelly's father sexually abused Mr. Kelly's maternal sister for years, during her upbringing. This is reported by his sister during her pretrial memo; by their brother, who witnessed the sexual abuse; and by multiple others who were aware of the abuse. Reportedly, the abuse began from an early age, progressed to rape by age 11, and ended when she was 17 or 18.

Contributory Factors: Factors contributing to the abuse include generational abusive dynamics within his father's family; his father's untreated PTSD; and the isolation of Mr. Kelly's residence. Regarding the first, his father's brother reported their father [Mr. Kelly's paternal grandfather] was extremely abusive, with "whippings and beatings." He referenced having to run away from their father so he would not be 'killed.' Another brother reported their mother [paternal grandmother] as physically and emotionally abusive, leaving marks from the abuse. Other reports described the family as very dysfunctional, with alcoholism, neglect and infidelity rampant during his father's development. During the present evaluation, Mr. Kelly's father also alluded to his father's physical abuse, reporting that his father repeatedly hit him in the head. Research is clear that individuals exposed to abusive parenting as children, are at higher risk of engaging in 'parental violence perpetration' toward their own children.²² This pattern was evident in Mr. Kelly's father, and his treatment of Mr. Kelly.

Regarding the second factor, Mr. Kelly's father served three tours in Vietnam. He has only recently started treatment for Posttraumatic Stress Disorder [PTSD], stemming from his service. Hallmark features of PTSD include unmodulated verbal or physical aggression which is often unprovoked, anger outbursts, and irritability.²³ If Mr. Kelly's father had been treated for PTSD during Mr. Kelly's development, it is possible the abusive dynamics may not have been present to the extent they were.

Thirdly, the isolated nature of Mr. Kelly's residence was also a factor. Mr. Kelly stated other children called his house the 'devil's house.' They kept their distance, due to his father's constant "hollering," and hostile reputation. He also stated the family was "shut off in our own little world," with few visitors to the home. Other sources indicated the family "kept to itself." They lived "way out in the middle of the woods;" "in the middle of nowhere;" and the children "could scream" but "get no help," due to the isolation. Thus, the family's isolation served to perpetuate the abuse, as it was a barrier to detection and prevented the children from obtaining assistance.

²² Carolyn Green, et al. *Intergenerational effects of childhood maltreatment: A systematic review of the parenting practices of adult survivors of childhood abuse, neglect, and violence*. 80 CLIN. PSYCH. REV. 1, (2020).

²³ American Psychiatric Association, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, 5TH EDITION, TEXT REVISION [DSM-5-TR] (2013).

Maltreatment / Impact: Mr. Kelly's history abuse and maltreatment is best described as 'complex trauma,' defined as prolonged, repetitive abuse, occurring during the developmental period, and most often perpetrated by caregivers.²⁴ Complex trauma perceived as 'life threatening,' as cited by sources in Mr. Kelly's case, has a more intensive impact on a child's development. Further, a hallmark feature of complex trauma is the perpetrator's 'coercive control,' defined as exerting "threatening and controlling tactics including physical, sexual and emotional violence [and] isolation..."²⁵ Manipulation, degradation and intimidation are also used within coercive control, to establish dominance within the relationship, and/or family. Per available data, Mr. Kelly's father fit well within this criteria. The impact of coercive control on children, includes, "poorer family functioning, harsher parenting and higher levels of child abuse" as well as increased risk of behavioral problems, including aggression, and limited socialization.²⁶ All apply to Mr. Kelly's case.

The impact of complex trauma on children can be wide-ranging, across multiple systems. For Mr. Kelly, primary effects were adverse social impacts, and anger expression. Regarding the former, Mr. Kelly was a nervous, quiet child, who was bullied, with his friend describing Mr. Kelly was ridiculed by their peers. He had low self-esteem, with his Boy Scout leader reporting Mr. Kelly "had a problem with self-acceptance." Reports from his teachers and other unrelated adults overwhelmingly describe a quiet, withdrawn, 'strange,' and socially awkward child. He was often seen alone, did not socialize much with other children, and did not "quite fit in" with his peers. One high school teacher described him as "it was like he wanted to disappear, tried to be as quiet as possible so as not to be noticed." This observation was likely related to Mr. Kelly's abusive home environment, as to be 'noticed,' meant to be hurt.

Studies indicate "well-documented impairments" in social functioning for children exposed to maltreatment, with "links to social isolation and withdrawal, perceived impairments in social competence, emotional intelligence and increased risk of bullying...they are less well-liked and more likely to experience rejection by their peers..."²⁷ Other studies indicate that, "for children, abusive trauma destructs self-worth and self-identity..."²⁸ Thus, due to abusive dynamics in his family and home environment, Mr. Kelly experienced social deficits, accompanied by low self-esteem, which made it difficult to connect with others. His social impairments prevented supportive bonding with peers and adults, which perpetuated his social isolation, and left him ineffectual in extricating himself from his abusive circumstance.

²⁴ B. A. van der Kolk, *Developmental Trauma Disorder: Toward a rational diagnosis for children with complex trauma histories*, 5 PSYCHIATRIC ANNALS 401 (2005).

²⁵ N. Xyrakis et al., *Interparental Coercive Control and Child and Family Outcomes: A Systematic Review*, 25 TRAUMA, VIOLENCE & ABUSE 22 (2024).

²⁶ *Id.* at 22.

²⁷ M. Pflatz et al., *Social Functioning in Individuals Affected by Childhood Maltreatment: Establishing a Research Agenda to Inform Interventions*, 91 PSYCHOTHER. PSYCHOSOM. 1, 3 (2022).

²⁸ Cheyenne Downey & Aoife Crummy, *The impact of childhood trauma on children's wellbeing and adult behavior*, 6 EUR. J. TRAUMA DISSOC. 1, 2 (2022).

Regarding the latter impact [anger expression], a large body of research supports that children exposed to maltreatment, particularly physical abuse, have a higher risk of aggressive acts and violence.^{29, 30} There are multiple pathways for the aggression, including modeling of aggressive adults (e.g., social learning theory), learning to solve conflict with aggression, and poor regulation of emotion due to neurobiological effects of abuse. Maltreatment can also produce high levels of negative affect in children, including anger.³¹ This is particularly so during adolescence, when emotionality is more intense, with greater susceptibility to affect dysregulation. In Mr. Kelly's case, he described increasing anger due to his father's abuse. Expression of this anger towards his father was not safe, and he did not have an appropriate outlet. Instead, he suppressed his anger over years.

Due to his abusive 'family and home' dynamics, the concept of 'anger rumination' is fitting for Mr. Kelly, as a primary pathway for the violence involved in the offense. 'Anger rumination' is defined as "unintentional and recurrent cognitive processes that emerge during and continue after an episode of anger experience."³² In his case, this concept would be operationalized as cognitively consumed with his abusive experiences, and anger towards his father. Further, "suppression of anger might provide the material for subsequent rumination."³³ Accordingly, individuals like Mr. Kelly, who suppressed anger, may be more prone to anger rumination.

Research supports that "*childhood maltreatment may result in anger rumination, which in turn, can trigger aggression, in that abused and neglected children may turn to anger rumination as a way of coping with the negative emotions and events they encounter. Then, anger rumination results in behavioral dysregulation, such as aggression.*" In other words, "...anger rumination may maintain and increase the intensity and duration of anger, which is the direct cause of aggression."³⁴ It is also asserted that anger rumination increases aggressive behavior not only towards the 'provocateur' [abuser], but "even towards innocent others."³⁵ The latter is referred to as 'displaced aggression,' which occurs when the target of the anger is inaccessible, or too risky to approach, as in Mr. Kelly's case. Additionally, anger outbursts associated with rumination may be more impulsive or reactive, which is also consistent with Mr. Kelly's offense.

In sum, Mr. Kelly's 'family and home environment' was significant for chronic and severe abuse, which adversely impacted his social development. The abuse also cultivated increasing anger, for which he had no outlet. Simultaneously, he felt increasingly trapped in his abusive circumstance. These factors converged at the time of the homicide offense, as detailed below.

²⁹ G. Ran, et al., *The Association between Child Abuse and Aggressive Behavior: A Three-Level Meta-Analysis*, 24 TRAUMA VIOLENCE ABUSE 3461 (2023).

³⁰ Joshua P. Mersky & Arthur J. Reynolds, *Child Maltreatment and Violent Delinquency: Disentangling Main Effects and Subgroup Effects*, 12 CHILD MALTREATMENT 246 (2007).

³¹ Jessica Shackman & Seth D. Pollack, *Impact of physical maltreatment on the regulation of negative affect and aggression*, 26 DEV. PSYCHOPATHOL. 1021 (2014).

³² Denis G. Sukhodolsky, *Development and validation of the anger rumination scale*, 31 PERS. INDIVID. DIF. 689, 690 (2001).

³³ *Id.* at 691.

³⁴ W. Zhu, et al., *Childhood maltreatment and aggression: The mediating roles of hostile attribution bias and anger rumination*, 162 PERS. INDIVID. DIF. 110007 (2020).

³⁵ *Id.*

III. Circumstances of the Homicide Offense – “...extent of his participation in the conduct and the way familial and peer pressures may have affected him.” ³⁶

Homicide Offense: Per indictments, Mr. Kelly was charged with Murder, from an incident on January 5, 1996, after “stabbing, cutting and wounding the victim [Shirley Shealy] numerous times with a knife.” She died “as a result of exsanguination due to incised wounds of the neck and multiple stab wounds to the back and chest.” The murder occurred during the course of a Kidnapping, and Armed Robbery, with money taken from the Kentucky Fried Chicken, in Batesburg. Further, a knife was used during the commission of the crime, resulting in a charge of Possession of a Weapon During Commission of a Violent Crime.

■ Below is an account per law enforcement and discovery data regarding the homicide offense, followed by relationship dynamics with the victim, and Mr. Kelly’s accounts of the offense. Subsequent legal actions and proceedings are also included.

Autopsy: Per the autopsy report, the victim was 25 years old, and died on **January 5, 1996**, between “**10:30 and 10:45 p.m.**” She was found at her workplace by law enforcement, “lying face down with her hands taped behind her and blood around her.” She was “lying on top of money and there was money scattered on the floor.” Approximately thirty stab wounds were listed on the autopsy report. Her “probable cause of death” was found to be “exsanguination” due to “incised wounds of neck and multiple stab wounds of back and chest.” It was noted “none of the stab wounds would have been rapidly fatal since the incised wound of the neck only partially severed a vein and the stab wounds of the chest that penetrated did not strike large vessels or highly vascular structures.” Further, “the trachea has been completely severed by the deep incised wound” which was a “chop/incised wound of back of head with 1 inch cut in skull.” The autopsy report was “rendered in the absence of a toxicological analysis.” Additionally, a “six month fetus, normally developed” also died, “in uterus acutely secondary to mother’s death.” [Per a news article from September 17, 1998, solicitor “[Donnie] Myers said Kelly was not charged with the death of Shealy’s six-month old fetus because it could not have survived outside the womb.”].

Law Enforcement Investigation: Multiple investigative documents from the Batesburg-Leesville Police Department [BLPD], and defense investigative documents were included in Mr. Kelly’s case file. Many of these documents did not yield pertinent data, and only relevant data is outlined for analysis. Further, BLPD reports noted that the Lexington County Sheriff’s Office and SLED also responded to the crime scene for assistance and processing, however, these records were not available for review. [Note: The law enforcement and defense investigative reports from Jerry Wyndham were not included in the homicide circumstance, as Mr. Wyndham acknowledged lying to police twice about his reports. He also acknowledged to the defense team that he was using large amounts of marijuana at the time of reporting. He did not testify at the trial. Further, in pretrial defense memos, Mr. Kelly “stated he does not know who Jerry Wyndham is.” In many subsequent interviews with the mitigation investigator, he continued to assert that he did not know Mr. Wyndham. He reiterated this during the present evaluation].

³⁶ Miller *supra* note 1.

Law enforcement reports indicated that “all” [KFC] employees interviewed “stated that a former employee William A. Kelly had been in the store for some time earlier that day [January 5, 1996]. He had taken the victim to the bank to make the store deposit that afternoon and had stayed at the store until about 8:00 p.m.” Specific employee reports are as follows.

On July 29, 1998, Ms. Patshie Dozier was interviewed by the defense investigator. She worked at KFC during the time of the homicide. She was “very close” with Mr. Kelly who was a “friend.” On **January 5, 1996**, she arrived at work at 4:00 p.m. and “a short time later” Mr. Kelly and Ms. Shealy arrived “together.” She reported that “Shirley said Billy had taken her to the bank.” Mr. Kelly “stayed and talked” with her for a “short while” and left when it was “getting dark.” Ms. Dozier left work at **8:30 p.m.** She knew Mr. Kelly to carry a “pocketknife.”

A KFC employee Kelvin Harris was interviewed by police on January 6, 1996. He indicated that he left the store on **January 5, 1996** at **10:00 p.m.** and got home at “about 10:30 p.m.” He wrote, “As I got out of the car I saw Shirley’s car come speeding around the block. I thought it was strange that she was coming by my house when she should be going home.” His residence was [REDACTED] *[On July 21, 1998, Mr. Harris was interviewed by a defense investigator. He was asked about his written statement to police and “he verified its accuracy and stands by it.” He “was very adamant that the car which came by his house at approximately 10:30 on the night of the killing was, in fact, Shirley Shealy. He is positive it was Shirley driving the car. She appeared to be alone].”*

On January 5, 1996 and January 6, 1996, KFC employee, Ms. Mary Coleman was interviewed by law enforcement. She left the store on **January 5, 1996** at “about **10:15 p.m.**” She said Ms. Shealy turned off the lights at 10:00 p.m. as “Shirley was trying to run us out.” She reported Mr. Kelly and Ms. Shealy “got into it” approximately one month ago when “Billy was upset” and “she said they had some words.” Ms. Coleman also stated Mr. Kelly was in the store on January 5, 1996, “he was talking to Shirley when Neil her husband came in at 8:00-8:30 p.m. Then Neil gave her this look. Shirley said that she wasn’t worried about that.” She indicated Mr. Kelly took Ms. Shealy “to the bank...around 5:11 p.m. because I teased her about Billy taking her to the bank.” She stated Mr. Kelly was at the store from “4:00 to 8:00 or 8:30 p.m. Ms. Coleman further stated that Ms. Shealy “always flirted with him [Mr. Kelly]...”

A KFC employee, Barbara Adams, was interviewed by police on January 6, 1996. She worked with the victim on the night of the homicide. On **January 5, 1996**, she and Ms. Shealy “were the only two people inside the building at **10:24 p.m.**...I finished cleaning up and Shirley clocked me out.” Her timecard indicated 2219, however, after she clocked out, she waited for Ms. Shealy who was “in the office with the door open counting the money and presumably and by usual standard put the money in the floor safe.” They left together, and “Shirley locked the front door.” They walked to their cars, and “Shirley drove off before me” while Ms. Adams let her “car warm up” and so “sat there for about five minutes before pulling out.” Per the police incident report, their cars were parked right next to each other and “she did not see or hear anything unusual or see anyone inside Mrs. Shealy’s car.” She observed Ms. Shealy drive out of the parking lot.

Jason Hite, was interviewed by police on February 19, 1996. On January 6, 1996, [he meant **January 5, 1996**] at approximately **11:00 p.m.**, he rode by the KFC and “saw the victim walking up to the front door of KFC. The victim’s car lights were on and the door (driver’s side) was open. There were no passengers in the car and I saw no one in KFC or around the building.” He recalled saying to the individual with him, “that it wasn’t smart for her to be there by herself.”

Per Incident Reports from BLPD, on **January 5, 1996, at 10:50 p.m.**, an officer “observed a parked burgundy four door Buick with driver’s door open and engine running at left front of KFC.” The KFC was located 431 W. Columbia Avenue, Batesburg, South Carolina. As he drove through the parking lot, he “thought he observed someone duck down.” He parked and went to the door, which was unlocked. Once inside, he “observed [the] victim lying face down in a pool of blood with money scattered on floor near victim.” He called for additional law enforcement. Items found at the scene included “one yellow in color handled knife;” “one roll of silver in color duct tape;” and pieces of a latex glove. Multiple employees confirmed these items were not KFC store items. Of note, the knife was found “wiped clean and sitting on a rack in the restaurant.” An “unknown amount of money” was also found at the crime scene. The victim’s vehicle, parked out front of the KFC, was processed by law enforcement.

An Aiken County Sheriff’s Office ‘Missing Person’ report indicated that on **January 6, 1996 at 3:00 p.m.**, Ms. Kelly’s mother contacted law enforcement when he had not come home. She reported that on January 5, 1996, at 9:00 p.m., he left home “en route to the night club ‘The Zoo’ in Columbia, South Carolina. He had not returned as of January 6, 1996 at 3:00 p.m. She told law enforcement that “the victim’s [Mr. Kelly’s] girlfriend Shirley Shealy was the victim in an Armed Robbery and Homicide at a KFC in Columbia, SC.” His mother had been contacted by the Columbia Police Department, who was looking for Mr. Kelly, and had been “advised to make a missing person report.”

Per Lowell Police Department Witness Statements, Mr. Kelly’s sister and step-niece were interviewed. At the time, his half-sister, Maude Lacoy, was 26 years old and lived in Lowell, with her husband, and stepdaughter, Starr Lacoy. Starr’s statement indicated that Mr. Kelly contacted her on **January 8, 1996, at or before 1:30 p.m.** They socialized at her house, her friend’s house and a local restaurant before going to his sister’s house. This was “only my second time” seeing Mr. Kelly. She wrote, “he didn’t look nervous or scared or anything to me.” He showed her new clothes he had bought on the drive from South Carolina, and that he picked up a hitch hiker. While they were out, his sister arrived at her home and found an answering machine message from Mr. Kelly. Mr. Kelly’s message stated “Hi sis, it’s me, I’m here, I’m going out with Starr and I’ll talk to you later.” Mr. Kelly’s mother had also left a voice message asking Ms. Lacoy to call her, which she did. Once confirmed where he was, Mr. Kelly’s mother contacted law enforcement and informed them of Mr. Kelly’s whereabouts. In the interim, Mr. Kelly arrived at her home on **January 8, 1996 around 4:30 p.m.** and “hugged” his sister. He told her he arrived in Massachusetts at 3:00 a.m. and slept in his car. They spoke for several minutes before police arrived.

Per the Arrest Report, on **January 8, 1996 at 5:00 p.m.**, officers at the Lowell Police Department in Lowell, Massachusetts, received a phone call from BLPD with the address where Mr. Kelly could be located. This was the home of his sister, Maude Lacoy. Officers arrived at the location and arrested Mr. Kelly without incident.

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At the home, they mirandized Mr. Kelly and asked him about the homicide, during which he “made admissions.” Thus, he was transported to the Lowell police station for an interview, where he gave a statement implicating himself in the offense. He had “over \$140 in cash on his person at the time, [and] several of the bills appeared to have blood stains on them.” He was placed under arrest as a “Fugitive from Justice.” He informed officers that “the clothes he was wearing during the commission of the crime were all in a bag inside his vehicle” and “were blood stained.” After his statement, he was booked into the Lowell jail on **January 8, 1996**, at **11:44 p.m.** as a “juvenile.”

Relationship Dynamics with the Victim: Pretrial interviews with Mr. Kelly, and collateral sources conducted by law enforcement and the defense team, describe relationship dynamics between Mr. Kelly and Ms. Shealy. Reports obtained during the present evaluation are also included.

Pretrial Examinee Interviews: During pretrial interviews, Mr. Kelly reported to the mitigation investigator that Ms. Shealy “harassed” him at work. He repeatedly denied having sex with Ms. Shealy during these interviews, despite multiple collateral reports to the contrary. However, he indicated she “tried to force me to have sex with her. People at work saw her do this. She touched me.” He “complained” to the manager who told him he could write it down, or call the main office, however, he did not want her fired. He told his sister, mother and father, but they were not helpful.

Pretrial Collateral Interviews: On January 8, 1996, law enforcement interviewed Mr. Jesse Johnson “at the high school.” Mr. Johnson “stated he was Billy’s only friend.” He stated Mr. Kelly did not have a problem with alcohol or drugs. He reiterated “he didn’t hang around with anyone else that I know of. I was his only friend.” Mr. Johnson initially stated Mr. Kelly and Ms. Shealy were not involved. He stated Mr. Kelly “quit” his job as he was not being given cooking duties, and began work at the McDonald’s in Aiken. Later in the day, “Jesse stated to Capt. Rish he lied...” He “stated Billy had an affair with the victim. They would have intercourse in the back office. But he didn’t want to have sex with her anymore and she fired him because of it. He stated that wasn’t his baby.”

On July 24, 1998, Mr. Johnson was interviewed by a defense investigator. The memo stated, “Shirley would man-handle him [Billy] and make him [Billy] have sex with her. Shirley used to tease Billy about her pregnancy saying the baby was Billy’s. It is Jesse’s belief that Billy didn’t care much for Shirley but got along with her when they worked together.” He noted that “Billy knows of at least two of Shirley’s boyfriends.”

In 1998, the defense investigator interviewed a former KFC coworker of Mr. Kelly’s, Ms. Mary Anderson. She was “closer to Shirley Shealy than any other employees.” The memo noted that “any of the sexual innuendo, touching and/or pinching that went on was merely playfulness. Due to Billy’s young age and youthfulness he was often the brunt of some teasing by the mainly older workers” who “included Shirley Shealy.” Ms. Anderson reported that Shirley told her that “Shirley and Billy had sex in a break room at the store on one occasion. When Ms. Anderson acted shocked and questioned this, Shirley recanted and said she was only kidding.” She described Billy as a “very quiet person” who “got along well” with Shirley however “did tell Ms. Anderson on one occasion that he didn’t like Shirley and didn’t want to go with her.”

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She had never seen Mr. Kelly mad, involved in fights, or threatening in any way. She recalled that on one occasion “a guy came into the store looking for Billy. The guy looked mad. Billy hid in the back until the guy left.” On the day of the incident, after Billy and Shirley returned from the bank, “everything seemed fine with both of them.”

Ms. Anderson also clarified a statement she made to law enforcement. She described sexual banter and teasing in the store with Mr. Kelly, and the female and male employees. She described Ms. Shealy making sexual advances to Mr. Kelly such as offering to show him her breast, and offering him to kiss her breast. She also “sometimes pinched Billy in the crotch and on the butt” and “Billy told Shirley that he did not want her.”

In the mitigation investigator’s pretrial interviews, the following was reported. Mr. Kelly’s mother reported “Billy told his mom he didn’t like Shirley and wanted no part of her, but later told his brother that he had slept with her. Billy complained that Shirley was coming on to him at KFC.” His sister, Michelle, reported having spoken to the manager at KFC “after Billy told her that Shirley was after him. The manager told her yes, she had seen it and explained that Shirley was forceful.” A memo with Ms. Francis Ingells [mother of Mr. Kelly’s paternal sister] stated that at her daughter’s wedding in the fall of 1995, “Billy talked to Frances about the situation he was having at work [KFC]. He told her he was having some problems and he didn’t know what to do about it because he needed his job. There was a lady at work who was married and he was having problems with her because she would not leave him alone...he didn’t know what to do and no one was helping him.” Another relative, Samantha Dolsen [half-sister’s sibling], also reported that, at the same family wedding, “he talked about having a situation with this woman at his job. It was a real problem for him because she was his supervisor and she was married.”

Per an interview memo with his sister’s husband, Danny McCormick, “...Michelle had told him that Billy and Shirley were messing around together.” In a coworker’s memo, Kelvin Harris, it was indicated that, “Kelvin stated that he had seen Billy and Shirley all over each other in the back room, up on the table. They were always messing around.”

In his pretrial interview memo, Mr. Jesse Johnson reported the victim “messed with” Mr. Kelly and “flirted with him and pressured him.” The day prior to the incident, he stated Mr. Kelly “told him that he wanted to quit his job at KFC because he was getting tired of Shirley messing with him.” He believed Mr. Kelly “had sex with her twice because she forced the issue. Jesse said Billy told him about it. Billy was disturbed and confused. He didn’t know how to deal with it and he wanted to block it out.” His paternal uncle, James Kelly, reported to the mitigation investigator that Mr. Kelly told him he was having sex with Ms. Shealy. In his pre-trial memo, his brother reported that Billy had told him, he was having a sexual relationship with Ms. Shealy.

Present Interviews: During the present evaluation, the following was reported. Mr. Jesse Johnson, Mr. Kelly’s closest childhood friend, stated, “Billy always talked about leaving home...he mentioned robbing a store one time to get money to leave town.” He knew the victim through Mr. Kelly and “found out they were involved, he told me about Shirley, he told me ‘I’ve been fraternizing with the boss, we’re hanging out, we’ve been kicking it for a while.’ They had sex a lot, in his car, the store, maybe at her house, she would always tease him and say, ‘I’m leaving my husband for you,’ but he didn’t want that.” Mr. Johnson would “go up to the store and hang out while Billy was closing. Shirley would be there, they had code words they said.”

He stated, "Billy tried to pull away and she didn't like that...she teased him about being pregnant even when she wasn't." Mr. Johnson further stated, "Her husband found out they were sleeping together and mentioned to Billy that he knew, the husband warned him, it wasn't a secret, her husband found out, maybe the week before." He believed Ms. Shealy was "messing around with multiple men, and she was more and more sexually aggressive with Billy."

Of the incident, Ms. Maude Lacoy, his paternal half-sister, stated "Michelle [Mr. Kelly's sister] told me she [victim] was a family friend, they all grew up together, she was pushy, she had a bad marriage, she was clinging on him all the time...." His sister's former husband, Mr. Mark Cumbee, had heard "something was going on with Shirley and Billy...I think they planned to rob it together, but she backed out of it, and he snapped and went crazy...I heard they were going to run away together." He stated having heard this account from Mr. Kelly's sister, Michelle.

Homicide Offense [Examinee Pretrial Account]: Mr. Kelly's account(s) of the homicide offense is provided from pre-trial sources.

Defendant Law Enforcement Statement: On January 8, 1996, at approximately 5:40 p.m., Mr. Kelly made a statement to police, of which there is a typed copy, which was typed by police. The statement indicated that he waived his *Miranda* rights. In his statement, he acknowledged that he "stabbed" the victim "inside the Kentucky Fried Chicken restaurant" and "took some of the restaurant's money." Afterwards, he was "scared and didn't know what to do." He "knew he had to get out of South Carolina because I knew that the Police would be looking for me."

He identified the victim as his former manager at KFC. He reported that the victim's husband had "accused me of sleeping with Shirley." During his employment at KFC, "Shirley was always asking me to stay with her saying things like she wanted me to sleep with her and she's come up to me and fondle my whole body saying that she wanted to have sex with me. She actually would grab me by the balls and say that she wanted me..." However, Mr. Kelly reported that he was "never interested" and "would always tell her to leave me alone. Shirley would get mad at me because I wouldn't sleep with her and because of this she'd make me do jobs that ordinarily I wouldn't have to do like clean the lobby and other things." He eventually "quit" due to her treatment, however, "Shirley called me a few times and asked me how I was doing. She would still come on to me sexually." He stated "At no time did I ever have any physical contact with her." He had not worked at the KFC "for 3-4 months" prior to his arrest, however, knew she was pregnant and "her husband had accused me of being the father but like I said I had never had sex with her."

On the day of the homicide, January 5, 1996, "around 4:00 p.m." he "stopped by KFC. I went inside and visited with the girls who worked there." While there, "Shirley asked me for a ride to the bank. I drove her to her bank so she could make a personal deposit" and to another bank "to make the KFC deposit." They "returned to KFC and hung around inside with the girls until 6-7 p.m. I then went home and stayed there until 9 PM-9:30 PM. I took a shower and got dressed and planned to go to the ZOO which is a teen club in Columbia SC." On the way, he "decided to take a detour and stop by the KFC to say HEY to the girls." He returned "after 10 PM" and "could see Shirley's car parked outside...the car was running and the driver's door was open." He entered KFC through an "open" door and "saw Shirley in the office." He said "hey Shirley" and saw that no one else was there and so began to leave.

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However “then Shirley asked me to stay there and talk to her for a while. Shirley started coming on to me like I described before. She asked me to stay and have sex with her...I didn’t want to do it because I didn’t like her and wanted to leave and go to the ZOO.” He “started to leave but Shirley grabbed me and asked me not to leave again. I pushed her away and told her not to put her hands on me and told her to sit in the chair and I would stay and talk with her if she didn’t touch me.” When she sat down, Mr. Kelly “saw some wide duct tape silver/gray that was on the floor...I picked up the tape and told her to put her hands behind her back. Shirley let me do this. I taped her hands behind her back...I said ‘this way you won’t be touching me.’ I told her if she didn’t let me do this I wouldn’t stay and let her talk to me.” They spoke for “about 5-10 minutes while she was telling me how much she wanted me and how much she wanted to be with me. She told me that I made her life sparkle.” He told her he “didn’t like her.” He was then “going to leave because Shirley had pissed me off. I was going to leave her tied up like that just to make her mad.”

However, “as I turned to leave, Shirley got up and freed one hand and grabbed me and told me to come back.” He called her names and “kept walking and she kept trying to pull me back into the office and started hitting me asking me not to leave. Both her hands were free now...” At that point, he “took the knife out of my pants” and “slit her throat” and while she “kept grabbing at me” he “kept stabbing her wherever I could until she let go of me. I couldn’t stop myself.” He then “taped her hands behind her back again.” He believes he stabbed her “more than 20 times.” Of the knife, he “had been carrying” it “off and on for protection during the past two weeks” due to threats from an individual.

After the stabbing, he “was confused and going in circles...because I knew that if the Police got there, I wouldn’t have a chance to tell my story like I am now.” He took money from the safe “because I knew that I’d need money to get away...” He “rinsed my hands off in the sink because there was blood on them and I think that I left the knife there too.” He “climbed out the drive through window and went to my car.” He began driving towards Massachusetts, and on the way bought new clothing, but kept the bloodied clothing in the car. He arrived in Lowell around 3:00 a.m. and “slept in my car at a rest area.” He “got to my sister’s house about 30 minutes before the Police came there.”

Pretrial Attorney Memo: Per an undated pretrial attorney memo, during Ms. Kathy Evatt’s representation, Mr. Kelly provided a “hypothetical” account of the offense. He visited KFC during the afternoon of January 5, 1996, to visit with his former coworkers. While there, he took Ms. Shealy to the bank to make the store deposit. He returned home, and then left around 9:30 p.m., driving his car. He returned to KFC to meet Ms. Shealy as they had agreed, as both needed money. She had left KFC after her shift, as had all the other workers, and then returned to the store to meet Mr. Kelly. She left her car running on purpose “so it would look like [when] she went back in, someone came in and took the money, tied her up and left.” While they were in the store, she told him to “tie her arms” while she sat in a chair. They agreed he would take the money, and she would get it “later.” However, once he began to leave, he indicated Ms. Shealy began to threaten to tell the police that he took the money and “they’d put him in jail and it would embarrass his mom and dad.” He indicated “it is possible that he was standing behind her [at the time of the stabbing]. The next thing he remembers is he heard a siren and he was standing in front of her. He had a knife in his hand and there was blood everywhere.” He recalled taking the money and running out of the store to his parked car, and started driving north.

Pretrial Forensic Psychiatric Assessment: A pretrial forensic psychiatric evaluation, by Dr. Donna Schwartz-Watts, is also relevant to ‘circumstances of the homicide offense.’ Per the 1998 memo, Mr. Kelly provided an account of the offense to Dr. Schwartz-Watts, which involved a plan with the victim to rob the KFC together. They planned to meet at the KFC at 10:00 p.m., she would open the safe and he would “tape her up to make it look like a robbery.” During the course of this, she threatened to tell the police and “he got mad and blanked out.” He “stabbed her with a diving knife that he carried in his shoe” which, per Dr. Schwartz-Watts “is typical of abused kids to carry weapons this way.”

On March 20, 1998, an attorney memo included clinical impressions from Dr. Schwartz-Watts. She believed Mr. Kelly may have “some type of brain damage – probably organic, but it could have occurred from physical abuse from his father.” He “also suffers from a dissociative disorder and dyslexia.” She recommended Mr. Kelly undergo a battery of testing, to include an MRI [head], EEG [sleep deprived], and “series of lab tests” to include “Comprehensive Metabolic Screens, TSH, RPR, HIV, Folate, B₁₂ and CBC.” This testing was conducted on June 9, 1998. Per an attorney memo from July 20, 1998, “the tests done were all within normal limits.” Dr. Schwartz-Watts indicated “she is now thinking he suffers from a dissociative disorder due to physical abuse.” The memo indicated “Billy told her of terrible physical abuse from his father. She also suspects sexual abuse but Billy would not confirm it today.” She recommended “psychologists who specialize in dissociative disorders and/or post-traumatic stress disorder.”

Capital Trial: Mr. Kelly’s trial took place from September 15 1998 to September 17, 1998. A news article at the time of trial referred to Mr. Kelly as a “youthful looking slightly built man” at 20 years old, who was a “former boy scout with no prior criminal convictions.” At trial, the state asserted that Mr. Kelly waited in the victim’s car as she closed the restaurant. When she got in the car, he allegedly forced her at knifepoint to return to the restaurant and made her open the safe, before killing her. News articles indicated that when the autopsy photos were shown, Mr. Kelly was observed to “cover his mouth with his hands, digging his fingers into his cheeks. He later put his head down.” Mr. Kelly did not testify.

Capital Sentencing: The 24-hour ‘cooling off’ period was observed after his conviction, and thus, his sentencing hearing began on September 18, 1998. At the sentencing phase, news articles quoted Mr. Kelly as stating, “I want to apologize to the victim’s family. I’ve done wrong. I want to plead for my life.” The solicitor was quoted as saying, “here is Bloody Billy, the butcher of Batesburg. He committed a man-sized crime he needs a man-sized punishment.” The jury found all five aggravating factors: 1) Kidnapping; 2) Burglary; 3) Robbery while Armed with a Deadly Weapon; 4) Larceny with Use of Deadly Weapon; and 5) Physical Torture. Mr. Kelly was sentenced to death, after the jury deliberated less than an hour.

Post-Sentencing SCDC Statement: Mr. Kelly’s SCDC records include a typed statement regarding the offense, just after his admission. In this account, he endorsed planning a robbery, hiding in Ms. Shealy’s car, and forcing her at knifepoint to return to KFC. He obtained the money, and began leaving, however, believed he heard her on the phone with someone. However, when he returned, her hands were still tied. He indicated needing to kill her so she would not alert authorities, and then she “jumped up and scared him, so he stabbed her 31 times.” He “freaked out,” grabbed money, left through the drive through window, and traveled to Massachusetts. He reported no motive, that he did not need money, and had never been violent.

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He also mentioned his father having raped his sister throughout her development, until age 18. It is possible he mentioned his own abuse, but the statement is illegible, and cut off at the bottom. It notes that Mr. Kelly, “stated he just wanted to make it on his own.”

Subsequent Legal Decisions: In considering his appeal, on January 8, 2001, the South Carolina Supreme Court held: 1) “the probative value of the murder victim’s pregnancy outweighed its prejudicial effect;” 2) “trial court was warranted in denying requested parole ineligibility instruction;” 3) “trial court was warranted in denying absence of dangerousness instruction;” 4) “State’s questions of witness, including ‘what did I tell you’ improperly bolstered witness’ credibility but was harmless error;” and 5) “testimony that victim’s child said ‘a bad man killed his mommy’ was not hearsay.”

On **January 9, 2002**, the U.S. Supreme Court reversed due to the state’s failure to inform jurors Mr. Kelly had no chance of parole if given a life sentence. Specifically, on a 5 to 4 vote, they held that 1) “defendant’s future dangerousness was put ‘at issue’ during sentencing phase by evidence of defendant’s prison behavior combined with prosecutor’s argument, triggering due process right to parole ineligibility instruction; 2) right to parole eligibility instruction did not depend on jury’s demonstrated confusion on that issue; and 3) right to parole eligibility instruction was not indirectly satisfied by defense counsel’s comments concerning permanence of life sentence.” Thus, they remanded the case to the lower court for disposition, and as such, Mr. Kelly was entitled to a new sentencing hearing.

Resentencing: Per a Sentencing Sheet from July 14, 2006, he was resentenced to “life without parole,” for the Murder charge. In 2005, the USSC’s holding in *Roper v. Simmons*³⁷ prohibited the imposition of capital punishment for offenders younger than 18 years, thus, Mr. Kelly was no longer eligible for the death penalty. His 2006 Sentencing Sheet for Kidnapping indicated his sentence was “consumed by his sentence for murder.” His sentence for Armed Robbery remained intact, at 30 years, and he had already maxed out the five years for Possession of a Weapon During Commission of a Violent Crime.

Post-Conviction Relief [PCR]: An Application for Post-Conviction Relief was filed on April 7, 2009. The State of South Carolina “made its return on September 30, 2015,” and a hearing was held on August 1, 2016. At the hearing, Mr. Kelly and his attorney “informed this Court that Applicant wished to withdraw his application for post-conviction relief with prejudice.” The withdrawal pertained to the *Miller* and *Aiken* decisions. Thus, per an Order dated August 1, 2016, his PCR action was dismissed with prejudice.

Present Evaluation [Homicide Account]: Pursuant to *Miller/Aiken*, Mr. Kelly was questioned regarding the ‘circumstances’ of the homicide. He described initially knowing Ms. Shealy because his sister was friends with her, but more significantly, from his workplace. Of the latter, “Shirley was the manager [at KFC] and I worked at KFC.” During his employment “we started sleeping with each other pretty quick, she was 23 or 24 and I was 16, she was married, she already had a kid.” They “had sex” at KFC and “we drove around after work and had sex in my car or her car.” He stated “she really liked me and I liked her but she was married.” Regarding the other employees, “everybody kind of knew we were fooling around at work, in the cooler...”

³⁷ *Roper v. Simmons*, 543 U.S. 551, 573 (2005).

Eventually, “me and Shirley got real close and I broke down and told her what was going on in the house [father’s abuse].” At some point, he left KFC due to seeing other girls, which was “making Shirley jealous.” Therefore, he left the job, “I left because we got too close, it was like we were in a real relationship...” After he left, he would still visit KFC and see Ms. Shealy, and “we would meet up for sex, we were always sneaking around.” He clarified having left KFC “a few months before” his arrest; and that he had been involved with Ms. Shealy approximately one year prior to his arrest.

Mr. Kelly stated the idea for the robbery was first “said in a joking fashion” when talking with Ms. Shealy, “I said the only way I can get out of here [home] is to get some money, and you can’t help me, she didn’t know how to help [with his father].” At that point, the “idea came up of robbing the store, when one of us said something like ‘what are we going to do, rob a store?’ ” They “had a big, long emotional conversation, there was crying on both parts, she asked, ‘if I help you get money, will we still be in a relationship?’ ” At the time, “the long game was to join the military, but I needed my GED and I was too young, not 18 yet...” The “only other option was to live with my sister in Massachusetts, but I’d never really met her.”

Approximately a week later, the idea came up again, and “she said if we get this money, I can cosign on an apartment, we can meet up there.” He stated “the plan was to leave the back door open, leave the safe open, but she didn’t want to get in trouble...she was supposed to stay after work, I was going to come to the store, tie her up, and she was okay with it, she was supposed to say someone threatened her for the combination.” Mr. Kelly stated “there was no real plan of what to do after I got the money, no plan to leave town,” except to move out of his parents’ home, and away from his father.

During the day of the incident, he had been “off work” from MacDonald’s. Sometime in the afternoon, he “picked Shirley up and took her to the bank and then we fooled around in the car on the side of the road, and then we talked about it, both agreed to go ahead and do it.” He “took her back to work and they still talked about it.” He went home, and then left his house in the evening. He “told mom I was going to the Zoo [teenage club].” He “grabbed stuff on the way out of the house, duct tape, surgical gloves for fingerprints...” When asked why he brought these items to the scene, he stated “I was committing a robbery, seemed like the thing to bring.” He also “took good jeans and a button up shirt because I was going to go the club afterwards to say I was there.” When asked about the knife, he stated, “the knife just fit with everything else, to make it look like a robbery.” He had a “knife from my house, I had a tendency to collect knives, daggers, lock blades, deep sea fishing blades, and I had it with me.”

That evening, he “parked my car behind the Auto Stop at nighttime, around 9:30 p.m., and got in the back of her car, and was going to hide until Barbara [coworker] left, but Barbara didn’t leave, and Shirley came out and drove away because Barbara was still there and then we came back, and Barbara was gone and nobody else was there.” He stated, “Shirley had the key to get back in and we used the front door and she sat down in the chair. I had duct tape, took it from home for this reason. While this was happening, she had a second mind, she started getting scared and saying ‘we can’t do this,’ and I said ‘we can’t stop’...she left the safe on the quarter turn and I took the money and she started having second thoughts, I didn’t expect to be angry with her, and now I was worried and scared.” She told him, “I can’t let you do it, I have to call the police, but I was determined to do it anyway, I felt like I didn’t have a choice.”

He stated “we were both screaming at each other, and the knife came out. I originally thought I could threaten her but it didn’t work, then I killed her in a state of panic...” He stated, “she was screaming so much and I was in a state of panic and I didn’t know what to do...” He did not recall details of the actual stabbing. He stated, “the police came because her car lights were on, and the door was open and I saw the spotlight. I panicked and tried to wash my hands off...the money had fallen out of my jacket going all over the floor...” He “grabbed a couple hundred dollars” and “jumped through the drive through window, ran to the car, and started driving...” He “took my bloody clothes off, didn’t throw them away, I was not a mastermind criminal.”

He “kept driving and panicking and drove to Massachusetts...it was the only place I knew.” He “had been up there for my sister’s wedding the year before, just one time, I stopped at my sister’s stepdaughter’s apartment. I made it sound like it was a surprise.” However, “the police came and got me the same day...” When asked about any intoxication on the day of the offense, he had a “shot of liquor,” during the day, “much earlier,” and was “not inebriated or buzzed,” from alcohol. He had not used any drugs, and was not on any medication. He “just felt real distraught...” given his abusive home life. When asked why he did it, he stated “I was just so scared of my Pops, just wanted out of the situation...”

Analysis: In considering the ‘*Circumstances of the Homicide*,’ Miller/Aiken cites the youth’s ‘*extent of participation in the conduct*’ of the homicide offense as an area of consideration for sentencing. Mr. Kelly had no codefendants in the offense. Although he reports Ms. Shealy’s involvement as a co-conspirator in the robbery, before she changed her mind, the veracity of this report cannot be determined. If true, then an adult, seven years his senior, would have been influential in his participation, given his adolescence. If not accurate, then he was the sole participant. Regardless of account, he was the sole participant in the homicide.

Miller/Aiken further specifies consideration of “*the way familial and peer pressures may have affected*” the youth at the time of the homicide. There were no direct *peer pressures* affecting Mr. Kelly’s role surrounding the homicide offense. However, ‘*familial pressures*’ were strongly implicated. Mr. Kelly’s entire development was shaped by his father’s physical and emotional abuse, accompanied by constant fear and intimidation. As the abuse progressed into adolescence, Mr. Kelly’s anger from the abuse also progressed. He described having “a lot of hate [rage] in me,” however, he had no outlet for his anger. His father was a large, dominant man, and Mr. Kelly was terrified to challenge him or express his anger. He described being “death scared of dad,” preventing any efforts to fight back. Thus, he repressed his emotions, including fear, and increasing anger. Suppression of anger is common in abused youth, who are too vulnerable to express their feelings. His suppression of anger led to, ‘anger rumination’ which was also present, and contributory.

By age 17, he felt increasingly trapped, and desperate to escape the abuse, but did not have the financial means for independence. Per Mr. Kelly, the robbery was an attempt to obtain such means, to move out of his parents’ home, and away from his father. During the course of this plan, Mr. Kelly became panicked that his plan would fail, resulting in perpetuation of his circumstance. He believes his rage was triggered when “she [Ms. Shealy] backed out, and I felt trapped,” and “thinking when will it end?” He was overwhelmed with “just a ‘feeling’ emotion, no thinking, just got to a breaking point, just responded without thinking.” Such circumstances resulted in an eruption of rage, representing years of suppressed anger.

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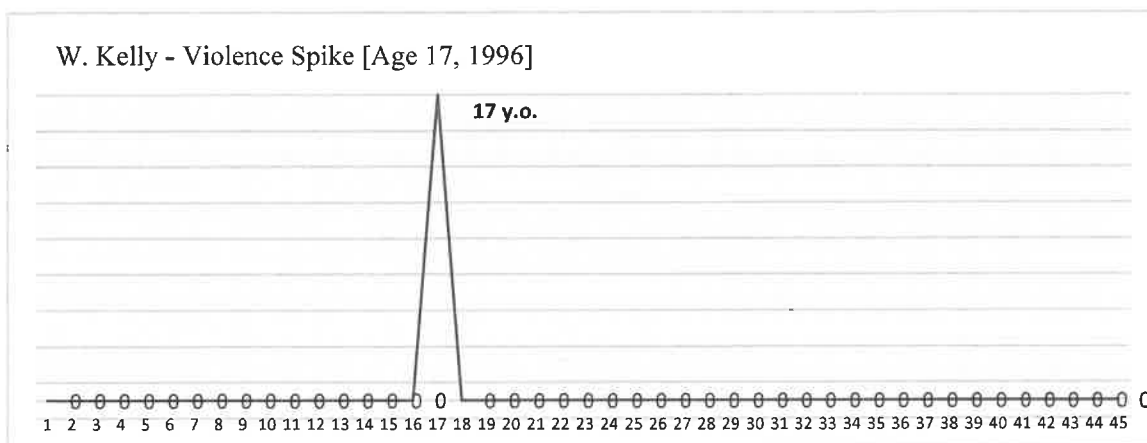
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Consistent with this theory, is that the homicide was an exceptionally violent act, and of the type typically associated with intense emotion. Reports of being amnesic during the homicide, are also consistent with this type of intense affect, particularly rage, and may represent a dissociative state. To further illustrate, multiple individuals interviewed connected Mr. Kelly's abusive family dynamics with the homicide offense, both in pretrial interviews, and during the examiner's interviews. These reports are detailed below.

Collaterals: When discussing the violence associated with Mr. Kelly's offense, his brother referenced their history of abuse and the anger associated with it. He stated, "what we went through...the more you think about it, I could have done something like that," referencing the uncontrolled anger involved in Mr. Kelly's offense. He stated "I had anger, a lot of it, if push came to shove, if I was cornered..." His sister, Michelle, believed "Billy's rage [during the homicide offense] had something to do with the anger he had for his dad." His brother-in-law, Mr. Cumbee, indicated, "I think Billy snapped because he was abused a lot growing up, he just snapped and done it on the wrong person," referencing Mr. Kelly's father, as the 'right person.'

His half-sister, Ms. Lacoy believed the offense "was an act of rage... all those years of living in fear and of being angry and repressing it, when you feel powerless, how will you gain control, sooner or later, there will be an outburst." She stated Mr. Kelly "suppressed anger, and fear, his anger has to go somewhere, it was bottled up..." After his arrest, she noted, "his whole life was over and his brain was still not understanding the magnitude of it." In her pre-trial interview, Mr. Kelly's aunt, Margie Hogg, reported, "in her opinion the kind of rage that came out in Billy comes from years of not being allowed to express himself. Years of being made to suppress his emotions and being oppressed by others." During the examiner's interview, Ms. Hogg recounted Mr. Kelly's physical abuse, and stated, "you could see he was angry, but he was never violent." She described his anger as "deep seated" and stemmed from his father's abuse. She believes his offense was related to "rage" from years of repressing his anger. He could not express his anger at home, because "he would get clobbered again."

Violence Spike: It is noteworthy that Mr. Kelly has no history of violence before, or after, the homicide offense, as illustrated in the chart below. Thus, the violence involved in the offense appears an aberrant reaction, related to dynamics isolated to adolescence. As an independent adult, no longer subject to his father's control or abuse, such dynamics cannot be replicated.



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In sum, as guided by *Miller* and *Aiken*, a review of the ‘Circumstances of the Homicide’ strongly suggests the principal role of ‘familial pressures,’ in giving rise to the offense, and but for these ‘pressures,’ would likely not have occurred.

IV. Incompetencies Associated With Youth “...inability to deal with police officers or prosecutors (including on a plea agreement) or incapacity to assist his own attorneys.”³⁸

The Court’s cited ‘incompetencies’ result from a youth’s inexperience with the adult legal system; underdeveloped cognitive and decision-making skills, particularly in stressful and emotional situations; and difficulties considering long-term consequences of decisions. *Miller* conceptualizes the ‘incompetencies’ on a broader scale than strict legal competence, impacting multiple case-related areas, with consideration of neurobiological correlates associated with adolescence. There are three primary areas where this factor intersects with Mr. Kelly’s case, to include: a) his interaction with his attorneys; b) his comprehension and waiver of *Miranda*; and c) nature of his confession and statements. The following areas are detailed below with corresponding analysis. Circumstance per collateral records, his attorneys’ input, and Mr. Kelly’s self-report were included for the analysis.

a) Interaction with Attorneys

Examinee’s Account: Mr. Kelly recalled his attorneys, but stated, “they barely saw me, then they wanted to talk about [the offense] so I didn’t put much effort into it. I thought I deserved to die, I didn’t care if they killed me or not, that was my true thoughts at the time.” He recalled that Ms. Fullwood and Mr. Kirkland “always came together.” During their meetings, “I was quiet, I told them a bunch of lies, what good was it going to do [to tell the truth], I told a bunch of lies on my initial statement too [to law enforcement]. I was scared, figured I had to say something.” When asked if he trusted his attorneys, he stated, “no, they were just there...” He also recalled, “my attorneys kept expecting me to show a range of emotion, but I didn’t have it at that time. I didn’t have anything to give [offer] them.” He “didn’t remember much” about the attorney meetings but “if they asked about the crime, I lied about it, or didn’t talk to them, they didn’t seem very interested and I didn’t care what happened to me. They were fed up with me because I wasn’t much help at all, I just didn’t care what happened to me.” He recalled Ms. Massey [mitigation investigator] and “talked to her more than anybody.”

Over the life of his case, he “didn’t put up much of a defense and even told a lot of lies...I was expecting death. I didn’t think I deserved to live...I knew I was going to die, I didn’t deserve to live...an eye for an eye, tooth for tooth.” When asked why his attorneys did not present his history of physical abuse at sentencing, he stated, “no one in the family wanted to say anything about it. Nobody would talk about that stuff with Pops in the courtroom” referencing his father’s intimidating effect on his mother, brother and sister.

³⁸ *Miller*, *supra* note 1.

Initial Lead Attorney - Ms. Kathy Evatt, Esq. Ms. Evatt was initially assigned to Mr. Kelly's case when she worked at the Lexington County Public Defender's Office. She described him with a "flat affect, was unemotional, withdrawn...he was not close to us....didn't open up to us, I don't remember him being very involved." Ms. Evatt also stated, "I don't remember any family talking to me or calling me or meeting with me." There was "no plea deal" because of the particular solicitor involved [Donnie Myers]." She shortly left for the federal public defender's office, and Beth Fullwood assumed role of lead counsel.

Second Lead Trial Attorney - B. Fullwood, Esq. His second lead trial attorney, Beth Fullwood, was also out of the Lexington County Public Defender's Office. She recalled the following. She stated Mr. Kelly "seemed to be sort of a shutdown young person, he was on the sullen side, oppositional, didn't like anything or anybody." She recalled "he had awful family, seemed like his parents really had never shown him any concern or care." Ms. Fullwood "did not remember a plea offer for life," thus, they proceeded to trial. She had a "vivid memory" of the night of the death sentence, while the jury was deliberating. She stated "we were waiting for the jury to come back with the death verdict, and his parents stated 'damn we're going to miss out on dancing tonight...' they were more concerned about going out to party than attending to their son."

Of the incident, "he told us a story about the victim's involvement, but also told us more than one account, he said different versions, one where he just did it and she wasn't involved...he was his own worst enemy...he just came from a difficult background." When asked if his adolescence impacted her ability to work with him, she stated, "yes, he hadn't been socialized properly, and he was sort of shut down. I do think his age was a barrier you just had to work around...a lot of his behaviors were due to his youth. He didn't have the experience to the way people did things, just wasn't socialized very well, because of how he grew up."

Trial Attorney - W. Kirkland, Esq. His second trial attorney, Wes Kirkland, Esq., also recalled Mr. Kelly. Mr. Kirkland was in private practice at the time of Mr. Kelly's case, and "volunteered" to work on the case. He recalled Mr. Kelly was "very, very quiet, I thought he was pretty immature, we never got a real idea of why he did this, never got a read on him, he didn't say much." He recalled Mr. Kelly and the victim "used to work together, and she just let him in." He described Mr. Kelly's family as "country kind of people." Of the trial, Mr. Kirkland recalled that during jury deliberations, "they brought fried chicken in" for the jury's dinner, which he thought was completely inappropriate. He also recalled "taking testimony until 12:00 a.m." due to the judge's desire for a rapid pace. He confirmed, "there was no plea for life."

Regarding Mr. Kelly's adolescence, Mr. Kirkland stated, "he wasn't talking much, just sat there, not sure how much he got. It was above his head, he never had much of a reaction, just kind of sat there, like it wasn't even real...he seemed to act younger than his age, seemed very immature, very naïve."

Analysis: Mr. Kelly's social and cognitive maturity was described by multiple sources as below that of his chronological age. He had an 8th grade education, and no experience residing outside of his family unit, which was restricted to a rural and isolated area. Thus, he had no worldly, or real life experience, and in the words of his attorney, was "not socialized properly." He had never before dealt with any legal matter, much less a capital case, nor consulted with adults in any reciprocal or professional role.

His experience with adults at that point in his life was exclusively as authority figures (e.g., parents, teachers, work supervisors), with his father as the primary figure. Due to longstanding abusive dynamics, he had a deep mistrust of his father. He was submissive to his father to avoid conflict, and did not show any emotion due to his father's rejection of such expression. These dynamics played out in his relationships with his attorneys, who assumed the role of authority figures. He did not trust them with case details, nor with his emotions. Thus, he was shut down, non-participatory, and mistrustful. He was unable to engage in an effective attorney-client relationship, or utilize their assistance, as an adult might.

Such approach is in line with pretrial adolescents, most of whom, like Mr. Kelly, have no experience with charges in the adult legal system. Literature in this area notes that, *"Most adolescents are unlikely to have previously been in a relationship like the attorney-client relationship, in which their opinions are so critical and their decisions determine how an adult will act on their behalf. They may not understand that they not only have the authority to act on their own behalf but also that it is necessary to do so..."*³⁹ Thus, unlike an adult defendant, Mr. Kelly remained mostly uninvolved, did not take initiative, or act with any authority in his case, leaving decisions to his attorneys. He was unable to trust them with his account, resulting in his attorneys' difficulties with effective representation, particularly around the facts of the homicide. Although the impact of his approach cannot be known with certainty, if he had been more trusting, and participatory, it is possible his attorneys may have obtained useful information to better assist him.

Additionally, when working with his attorneys, Mr. Kelly described hopelessness, and resignation to death, which he felt he deserved. He was likely significantly depressed, but unable to process his emotions, or reach out for assistance, due to immaturity and inexperience. For 17 years, affective experiences or displays had been rendered unacceptable within his family. Thus, he lacked the ability to process or express his emotions, which included with his attorneys. Further, traumatized and abused youth, as was Mr. Kelly, often 'shut down' in response to stressful situations, feeling it safer to withdraw, than express themselves. These dynamics also adversely impacted his relationship with his attorneys, who experienced Mr. Kelly as withdrawn, and disengaged.

In sum, Mr. Kelly's social immaturity; lack of experience in legal or serious 'adult' matters; lack of experience in interacting with adults in a professional manner; exposure to longstanding abusive dynamics with authority figures; feeling he deserved to die, resulting in apathy towards assistance; and inability to process such emotions due to years of abuse, adversely impacted his ability to effectively engage with his attorneys. All factors were a product of his adolescence.

³⁹ Jodi L. Viljoen & Thomas Grisso, *Prospects for Remediating Juveniles' Adjudicative Incompetence*, 13 PSYCHOL. PUBLIC POLICY LAW 87, 98 (2007).

b) *Miranda* Rights Comprehension/Waiver and Confession

When asked about his recall of *Miranda* rights at age 17, Mr. Kelly stated, “I didn’t know none of that stuff.” He had never been read *Miranda* on any previous occasion, and had only heard the rights on television, but “didn’t pay attention.” Regarding *Miranda* at the time of his waiver, he “didn’t understand or I would have kept my mouth shut, I thought I had to talk to police, they were authority figures. As a kid you see them as authority figures, like most kids at 17, the old me was very gullible. I didn’t understand I could have an attorney with me.” In reflecting on his waiver, Mr. Kelly stated, “I was not too legally versed on my rights.” When transferred to South Carolina, “I didn’t talk to cops in South Carolina because by then, I had talked to an attorney who told me to keep my mouth shut.”

Analysis: Regarding comprehension and waiver his rights, Mr. Kelly was 17 years old at the time, with more intact cognitive abilities than a younger juvenile. The weight of the research indicates that most 17-year old youth cognitively, and factually, understand their *Miranda* rights similar to adult counterparts.⁴⁰ However, research also suggests that, “age alone may not be the best indicator of [*Miranda*] comprehension abilities.” Instead, comprehension is best assessed using a ‘totality of circumstances’ approach, considering the individual youth’s abilities, and the interrogation situation.⁴¹

In Mr. Kelly’s case, he had not previously been administered *Miranda*, with his only experience through television shows. Thus, he had never applied them to an actual situation, particularly one with such serious consequence. He recalled not understanding their meaning within the context of actual application and utility, in that he did not appreciate the right to an attorney, or his right to remain silent. His lack of comprehension is in line with research indicating that many pretrial defendants have difficulty comprehending “an accurate working knowledge” of their rights, and actual applicability to the interrogation situation.⁴² In Mr. Kelly’s case, lowered cognitive functioning as an adolescent may have exacerbated such difficulty. He failed the 1st and 9th grades, and school records indicate consistently low standardized test scores, particularly in the areas of language and comprehension. He also had increasingly poor grades as he progressed in school. Collateral sources also commented on deficits in cognitive functioning, by describing Mr. Kelly as “slow;” “he loses the connection when you try to explain things;” has a “problem grasping things;” “didn’t always understand things;” was “slower than most children...” comprehension was slower than it should have been;” and “a little slower [than his peers].”

Additionally, Mr. Kelly was hundreds of miles from home, in a wholly unknown and unfamiliar locale. He did not have familiar family members present with which to consult, or who were present for support at the police station. He reported feeling “nervous, anxiety, scared, didn’t know what to say” when interviewed by police.

⁴⁰ Barry C. Feld, *Real Interrogation: What Actually Happens When Cops Question Kids*, 47 LAW SOC. REV. 1 (2013).

⁴¹ Heather Zelle et al., *Juveniles’ Miranda Comprehension: Understanding, Appreciation, and Totality of Circumstances Factors*, 39 LAW HUM. BEH. 281, 291 (2015).

⁴² Richard Rogers et al., “Everyone Knows Their Miranda Rights:” *Implicit Assumptions and Countervailing Evidence*, 16 PSYCHOL. PUBLIC POLICY LAW 300, 314 (2010).

Such emotion may have also diminished his *Miranda* comprehension. Studies have demonstrated the stress of an arrest, and interrogation can induce impaired understanding of *Miranda* warnings,^{43,44} with adolescents, who are less able to cognitively process information when under stress. A youth's abilities related to decision-making, within the stressful situation of an interrogation are compromised as compared to adults, given immature brain structure and function. Thus, under stressful conditions, even 17-year old youth may have difficulty comprehending their rights or applying those rights to their legal situation.

Further, notwithstanding individual factors, relevant literature has identified certain developmental traits that make a *Miranda* waiver more likely, overall, by adolescents. These include adolescents' focus on immediate reward versus long-term consequence, poor future orientation, and immature judgment. Researchers have theorized that, "maturation of several areas of the brain (e.g., prefrontal cortex) is required before youths can imagine outcomes of actions, understand consequences and prioritize long-term outcomes of decisions over short-term gains."⁴⁵ Due to these immature traits, the American Academy of Child and Adolescent Psychiatry has adopted a policy statement regarding adolescents in such legal situations. They noted that research "has demonstrated that brain development continues throughout adolescence and into early adulthood," while the "frontal lobes, responsible for mature thought, reasoning and judgment develop last." As such, "*when in police custody, many juveniles do not fully understand or appreciate their rights, options or alternatives.*"⁴⁶

In addition, adolescents have difficulty fully processing the gravity of situations, and how they will be impacted, particularly over the long-term. This is due to underdeveloped 'future orientation' skills, such that they have difficulty imagining themselves years into the future. This includes consideration of long-term consequences and their impact, such as a decision to waive their rights and confess. Per literature, this "may reflect their limited life experience" and that future consequences "may seem very remote in relation to how long they have been alive" (e.g. 17 years versus a life sentence of 60+ years).⁴⁷ As such, "juveniles' legal decisions, including those related to admissions of guilt, may reflect poor legal abilities/understanding, inappropriate reasoning (e.g., failure to consider the strength of evidence against them), and/or developmental immaturity."⁴⁸

⁴³ Kyle C. Scherr & Stephanie Madon, *You have the Right to Understand: The Deleterious Effect of Stress on Suspects' Ability to Comprehend Miranda*, 36 LAW HUM. BEH. 275 (2012).

⁴⁴ Richard Rogers et al., *Decrements in Miranda Abilities: An Investigation of Situational Effects via a Mock-crime Paradigm*, 35 LAW HUM. BEH. 392 (2010).

⁴⁵ Zelle et al., *supra* note 40, at 291.

⁴⁶ Interviewing and Interrogating Juvenile Suspects (March 7, 2013), https://www.aacap.org/aacap/Policy_Statements/2013/Interviewing_and_Interrogating_Juvenile_Suspects.aspx.

⁴⁷ Steinberg and Scott, *supra* note 13, at 1012.

⁴⁸ Lindsay C. Malloy, Elizabeth P. Shulman & Elizabeth Cauffman, *Interrogations, Confessions, and Guilty Pleas Among Serious Adolescent Offenders*, 38 LAW HUM. BEHAV. 181, 182 (2014).

In sum, Mr. Kelly's lack of experience with the legal system and law enforcement; lowered verbal comprehension skills and cognitive functioning; being in an unfamiliar place; having no supportive adult present for assistance or advice; experiencing elevated stress and fear; and neurobiological immaturity, with underdeveloped reasoning and judgment, likely served to diminish his *Miranda* comprehension, impacted his decision to waive his rights, and provide a confession.

c) Nature of Confession/Statements

After Mr. Kelly waived his rights, he provided an incriminating statement to law enforcement, implicating himself in the offense. By his report, he was not truthful in this account, as he denied a sexual relationship with Ms. Shealy, and did not reveal the conspiratorial element of the offense. In explanation during the present evaluation, Mr. Kelly stated, "I don't know why I lied, it was too much bad stuff at one time, I tried to not make us not look so bad..." He also believed he "denied the sexual part to protect the family, I thought, how much more damage can I do?" He thought that detail, as well as the conspiracy allegation, would needlessly hurt the victim's family. After this 'confession' to law enforcement, Mr. Kelly provided three additional versions, including one to his first attorney; one to the evaluating forensic psychiatrist; and another, as documented in his SCDC records when first incarcerated.

When asked about his different versions of the offense, he stated that as a child, he was "pre-programmed to certain responses, 'don't tell dad the truth,' that's how I grew up, kept things hidden." He stated, "whatever you said was considered a lie [by his father], so I always had to change my story to please dad, always changing the story to avoid getting beaten." He "grew up lying to survive, if I lied correctly, I would avoid a beating, if what you said didn't fit with his scenario, you were lying." Therefore, he had to constantly change the story to "fit" his father's narrative. Thus, lying was a coping mechanism to avoid punishment and abuse.

Analysis: Mr. Kelly's changing versions of the homicide offense, and inability to relate a truthful account to his attorneys adversely impacted their ability for effective representation. His lead attorney recalled that Mr. Kelly "told us more than one account, he said different versions... he was his own worst enemy..." Mr. Kelly's struggles to be truthful stemmed directly from developmental factors related to childhood abuse, and his adolescence at the time of legal proceedings. For years, lying served as a protective mechanism, as it worked to prevent abuse, which reinforced its use. Essentially, Mr. Kelly had been socialized over many years to lie to authority figures (e.g., his father), to avoid a negative consequence.

It is predictable then, that this pattern would continue with the authority figures in his case (e.g., law enforcement, his attorneys). As a teenager trying to navigate his case, he relied on this coping skill of many years, without the maturity or insight that this approach was not beneficial to his case. Thus, his lack of truthfulness was rooted in developmental factors, and can be classified as an 'incompetency' of sorts, which negatively impacted his case.

V. Possibility of Rehabilitation

In consideration of rehabilitation, youth are considered more malleable and amenable to personal change and growth, given that they are still within a period of evolving maturity. As their character is not ‘well-formed’ at the time of the adolescent offense, the Court has observed that it would be difficult to determine *the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.*⁴⁹ Per the Court’s recent opinions, life without parole sentencing is limited to the latter group,^{50, 51} which is “*all but the rarest of children.*”⁵² To assess this factor, Mr. Kelly’s functioning during his pre-trial detention and incarceration was reviewed, to include information from his self-report, and his SCDC file. In addition, several research-based concepts were considered to include: a) the age-crime curve; b) desistance from crime; and c) that an adolescent’s character is not ‘well-formed.’

Functioning in Pre-trial Detention [Correctional Records]: Mr. Kelly was housed in the Lexington County Detention Center, from January 1996 to September 1998, while he awaited trial. Disciplinary records were available through 1998; and mental health records were available for review through 1996.

LCDC Disciplinary Records: As a pretrial detainee, Mr. Kelly received multiple write-ups, with none violent or assaultive. Infractions included having a towel rack in the ceiling vent; using profanity with officers and refusing to return to his room; having a toothbrush with a metal tip; having two mattresses; being loud and disruptive; having received pornographic materials in the mail; and removal of mortar from around a cement block in his shared cell. Additionally, another inmate reported Mr. Kelly and his cellmate for allegedly talking about harming staff, or taking them hostage. Both denied the statements, and no disciplinary action was taken.

LCDC Detention Center Officers [Interview Memos]: In August 1998, a pretrial defense investigator interviewed multiple officers. One officer stated “*Billy is loud and obnoxious and cusses a lot...he believes that if Billy were given the opportunity, he would do everything that he says he will do.*” Another officer “*said that Billy is loud and obnoxious but he has never been threatened by Billy and is not aware of Billy making threats to other officers.*” Another officer indicated “*that in the beginning Billy was not cooperative and they had a lot of problems when he was in the cell with Matthew McCormack. He stated that things had settled down now...stated that he has never personally felt threatened or been threatened by Billy and he has never heard of Billy making threats to anyone.*” One officer stated “*Billy was a pain in the butt and was always running his mouth when other inmates are around...stated that Billy is different when he is not around the other inmates and Billy is usually fairly quiet in his cell.*” Another officer indicated that Mr. Kelly was “*not as bad as some of the other inmates and not as good as others. He had never received any threats from Billy...stated that all of the inmates run their mouth.*” Other officers also indicated no issues or problems with Mr. Kelly. The Captain stated, “*Billy was no worse than any of the other inmates that he deals with.*”

⁴⁹ *Roper v. Simmons*, 543 U.S. 551, 573 (2005).

⁵⁰ *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016).

⁵¹ *Tatum v. Arizona*, 137 S. Ct. 11 (2016).

⁵² *Montgomery*, 136 S. Ct. at 726.

LCDC Mental Health Records: Mr. Kelly arrived at LCDC on January 11, 1996. Prior to booking, he was evaluated by mental health services. He “sees his situation as ‘hopeless’ and that he has ‘no future’ ” and “is trying to accept the situation as best he can.” He was placed on “suicide precautions” with “psychiatric observation.” Of note, he was scored as having “No Insight” on a scale assessing ‘Understands Problem’ and assigned an Adjustment Disorder, Not Otherwise Specified. On this date, he “admits feeling anxious” with “crying spells.” On January 16, 1996, he was seen by mental health and “discussed with him how he handles strong emotions. He reports he never cries - never has. He reports anger just ‘happens’ to him.” He was cleared to be placed in a cell with other inmates. On January 19, 1996, he was seen by mental health, and was described as “cheerful and pleasant.” He expressed “concerns regarding his confinement” but was “adjusting to regimen.” In February 1996, Mr. Kelly was seen by mental health, and that “due to his incarceration” he “felt lost.”

On June 5, 1996, Mr. Kelly was seen by mental health due to “sleep difficulties and nightmares...had been thinking about his charges.” He was fearful of the amount of time he may receive. The note stated, “inmate did not seem remorseful for his victim, only concerned about consequences for himself.” On June 27, 1996, counseling notes indicated “inmate trying to deal with his crime. Asking questions about why it happened and trying to piece together what happened. Inmate exhibits symptomatology consistent with antisocial personality disorder. Expressed remorse for his crime but focused on how it affected his life. Expressed no remorse for his victim.” On August 24, 1996, Mr. Kelly was discharged from suicide precautions. He reported feeling “anxious and short-tempered” but was not suicidal.

On October 1 and 5, 1996, he sent notes to mental health which stated, “I am having problems with depression and don’t think I can hold my ground much longer;” and “I need to talk to you immediately about some problems with depression.” In response, during a counseling session on October 7, 1996, he reported feeling “bummed out” and “irritated all the time and gets angry easily. States he’s agitated most of the time...” On October 21, 1996, Mr. Kelly was seen by the mental health counselor. Notes from this session indicate “reports obsessing at times about killing people who ‘piss him off’ – thinking about how he can do it and ‘not get caught.’” Also “states he has never really had any remorse for his crime but tried to pretend he was sorry for the sake of his mother. Inmate reports torturing and killing animals when he was small.” On October 22, 1996, a note stated, “anger is his most troubling problem. Has trouble feeling like he ‘might explode’ when people get on his nerves.”

On November 3, 1996, Mr. Kelly’s roommate submitted a medical request for Mr. Kelly to be seen due to “keeps talking of raping C/O’s and nurses. He even tells me he’s had thoughts of killing other inmates. From what he’s said to me, the reason for these thoughts is because he can’t get anyone to help or listen to him. I feel someone should talk to him.” Thus, on November 7, 1996, he was seen by mental health at the “request of his cellmate...Discussed inmate’s childhood development as well as his current violent fantasies. Inmate has very limited insight into his behavior. He was very honest in describing his lack of conscience and his desire for violence.” Mr. Kelly “believed there was something wrong with his brain” and “expressed his belief that his conscience has never worked right.”

Functioning in Pretrial Detention [Examinee]: During his pretrial detention, Mr. Kelly recalled sleep disturbance, “anxiety attacks” and “nerves shot.” He had “anger, pent-up frustration, a lot of anger issues going on then,” which have since resolved. In jail, “I worked through a lot of phases. When I came in, I looked like Bambi, county jail wasn’t a good spot, it was the first time I had been around criminals.” His youth was a factor with regard to vulnerability, and he believed, “I was the only 17 year-old in the jail.” He recalled thinking, “as a 17 year-old, I couldn’t buy cigarettes at the jail but I was eligible for the death penalty.”

When asked about his detention records, he believes he went through a “crazy phase.” He recalled “the other inmates told me about the death penalty, and I went through a crazy phase. I thought I would say crazy stuff so they wouldn’t seek the death penalty.” He “listened to guys in the county jail, they told me to play crazy and they weren’t very descriptive about it, just try to play crazy and make everybody think that I was tough. I was young and scared as hell.”

He further explained that the details of his offense, “didn’t look good in the eyes of the other inmates, the more crazy I could make myself sound, the less problems I had to deal with them. The other inmates whispered in my ear to get on psych meds to look like mental health, let people know you’re crazy. And people were talking about Donnie Myers, that he had his own chair in the Lexington County Courthouse, they were talking about Donnie Myers and how successful he was on the death penalty, so I tried to play crazy.” Mr. Kelly was also “nervous, I had to act like a tough guy, I had to act like the killer that everybody thought I was, it was not a shining moment, I regret that.” He denied any history of torturing or killing animals, but, “I had to have something wrong with me, so [I made up]...sociopathic stuff, other inmates were telling me about it.”

He recalled his cellmate, ‘Matt McCormack’ was older, and criminally experienced. He stated, “McCormack was in for federal charges, he played me real good, he brought it up,” with respect to “talking about taking a nurse or officer hostage.” He stated “McCormack said we should take a nurse hostage and get out, and he cut the intercom on so the conversation could be overheard [by staff], he did all that for a reason. I think he got a time reduction, he was baiting me.” He recalled having a “big Styrofoam cup, and McCormack just baiting me at the time, he drew most of it, the KFC cup with the chicken with the head cut off. Matt told me to carry it around, and try to impress people.” When asked about records indicating a nickname of ‘KFC,’ Mr. Kelly guessed he “wanted to be called KFC for an ‘image.’ I had to hold up that image, I was the most infamous inmate, the new kid on the block...I said a lot of stupid stuff...I had to be a tough kid, to say, ‘don’t mess with me.’”

Regarding his jail disciplinarys, he stated a former inmate mailed him the pornography picture. He did not recall a towel rack, and reported no “escape attempt.” He had a “toothbrush with a metal tip on it for personal safety, that’s what you do when you first go to jail, people told me ‘you look like jailbait, people will try you’ so I got a weapon.” He has “now grown past that, prison doesn’t scare me like it used to” due to his maturity, and older age. When asked about being loud and cursing, he stated ‘yes, I did all that, I was like that with everybody, being so young and scared, and stupid. People trying to make me out to the bloody butcher of Batesburg, they were calling me that in jail, in the paper. I was trying to live up to the hype, it wasn’t very bright.’ He added, “I woofed a lot.”

Psychological Evaluation [Adjustment to Incarceration]: At the request of his defense team, Mr. Kelly underwent a psychological evaluation by Steven Shea, PhD., in August 1998. The evaluation assessed clinical functioning, and potential for successful adjustment to incarceration. Per Dr. Shea's report from September 1998, Mr. Kelly underwent clinical interviews and a battery of psychological testing. He presented with stable functioning, and was "anxious" but no overt signs of mental disorder were observed. IQ testing with the WAIS-III fell within the "average range of intelligence" with a Full Scale IQ of 107; Verbal IQ of 103; and Performance IQ of 111. He tested at the 9th grade reading level. Personality testing was not indicative of major mental disorder, or personality disorder, although he acknowledged "acute distress," likely related to his situational circumstance. He "admitted a history of alcohol abuse and some use of illegal drugs." Dr. Shea issued a diagnosis of "Alcohol Abuse, In Remission."

Dr. Shea included an assessment of Mr. Kelly's "Adjustment to Incarceration," which listed six considered factors and an 'Overall Adjustment to Prison' category. In this analysis, Dr. Shea noted Mr. Kelly "had one homemade knife in jail (being shown to other inmates)." He explained that Mr. Kelly was "physically small and relatively young-looking" with "advances from sexual predators and more aggressive inmates likely." Thus, "initial reputation-building necessary." He also stated Mr. Kelly had "relatively good adjustment to jail, in spite of no prior experience." Dr. Shea opined Mr. Kelly would have a non-violent, and thus, successful adjustment to prison. He identified factors relevant to Mr. Kelly, such as the "isolated" nature of Mr. Kelly's offense with "no general pattern of violence;" "no prior arrests/convictions for violence;" "no fights in jail;" "no suicidal threats;" "no gang activity;" "no attempts to organize rebellion in jail;" "no violence in jail;" "no long-term lock-downs necessary;" "small person who loses fights;" "no history of mental illness;" and "able to work without restraints and without causing problems."

After twenty-five years in prison, Dr. Shea's assessment findings have been borne out, by Mr. Kelly's successful adjustment to SCDC, as documented below.

Prison [SCDC] Functioning: Mr. Kelly began his incarceration in SCDC on September 19, 1998, as a death row inmate at Lieber CI. Mr. Kelly described death row as "real scary, a real eye-opener" but had "no disciplinary trouble, and lots of organizations coming all the time." He stated, "everybody was on the same page, same sentence, everybody was about to die, a lot of attorneys helping people out..." In February 2002, his death sentence was overturned, and he was transferred to Lee CI, "to SMU, because I was waiting on resentencing." In July 2006, he was resentenced to life without parole. Once he was resentenced, "they moved me to McCormick CI lock-up and put me on a stepdown program, six months in close custody, only there for a couple months." He was then transferred to "close custody at Lee CI, put on the stepdown program, I was at Lee for a good many years, four or five years." He was "moved back to McCormick on a hardship transfer for mom, and then to Broad River, been here ever since, since 2014." Thus, at the time of all interviews, Mr. Kelly was housed at Broad River Correctional Institution [BRCI].

At the time of the initial interviews, his security status was "MI3." He stated, "I could be MI2 with ten years left on my sentence, but that's not available for lifers, I would be able to go to a program yard, but life is not a priority for any type of program." By his April 2023 interview, Mr. Kelly had been reclassified to MI2, due to a "different point system" in place by SCDC. This system is based on the inmate's history of prison disciplinarys, rather than type of offense.

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Due to this new classification system, Mr. Kelly became eligible for a lower security classification, based on his good disciplinary record. This means he is “eligible for a Level 2 [institution],” but “I would rather stay on the medical unit,” due to his newly diagnosed cardiac issue [detailed below]. In 2024, he verified his continued classification as MI2, which is the lowest level he can be classified with a life sentence.

Mr. Kelly’s functioning during his incarceration, in various psychosocial and conduct domains, is provided below, to include a) Medical & Mental Health; b) Vocational; c) Religious; d) Disciplinary; and e) Interpersonal/Family Relationships. Data is included from his SCDC records, and from his self-report.

a) SCDC Medical & Mental Health History

SCDC Records: Medical records from September 19, 1998 to November 21, 2022, indicate Mr. Kelly has mostly been seen for routine medical concerns. Early in his incarceration, he underwent an eye exam due to poor visual acuity and was issued glasses. He has had somewhat worsening vision over his incarceration. He has been repeatedly treated with medication for “acid reflux or GERD,” with rare instances of taking any other type of medication. However, in July 2019, Mr. Kelly was assessed for irregular heartbeat, and referred to community cardiology specialists. He was seen in July 2020, and diagnosed with “sinoatrial bradycardia, with unifocal bigeminy.” In February 2022, he was placed on a heart healthy diet, but did not require medication or other intervention. Due to this diagnosis, he was relocated to the medical unit.

Regarding mental health services, upon arrival to death row in September 1998, records reflect no history of mental health treatment. He was noted as “mentally stable, no medication.” From May through August 2000, he was prescribed Vistaril, 50 mg, as needed to assist with insomnia. In March 2002, he again requested Vistaril, however, per recent changes at SCDC, “no longer is insomnia to be addressed.” In 2002, he was “listed as not mentally ill and not in need of treatment at this time.” In March 2002, he was assessed by mental health due to transitioning off of death row and into population. He “is not able to identify any mental health problems other than occasional nightmares in which he sees scenes from his crime.” He was described as “affable and congenial” with “no indication of mental aberration;” and “appears bright, reads a great deal.” He was noted to have moderate situational anxiety given the change in his sentence and new housing. Other than routine ‘checks’ when on SMU or related units for stepdown purposes, Mr. Kelly has not been subject to mental health evaluation or treatment.

Examinee Interview: During the earlier interviews, Mr. Kelly reported no major medical conditions during his incarceration, and no medical treatment at outside facilities. He had seen the dentist to repair an “exposed nerve” and to the “eye doctor.” He reported no prescription medications and overall good health.

However, during the April 2023 interview, Mr. Kelly reported having been diagnosed with a cardiac condition. He described it as a “down beat, like a stroke low, not the full pump, they say you’re usually born with it.” It “started right after COVID.” For evaluation, he was transported to Palmetto Health Richland, where he “ran on a track, wore a heart monitor.” His condition does not require medication at present. However, due to its potential seriousness, he is presently housed on the ‘Murray Unit’ at BRCI, which was a “medical unit.”

On the medical unit, he had been placed with an individual in his 60's who "just did bouts of chemo, I help take care of him, they know I will take care of the sick guys." Therefore, he has been paired with inmates who are seriously ill and need assistance.

Regarding mental health, Mr. Kelly reported psychiatric medication for "night terrors" while on death row. He reported no medication or mental health oversight since he left death row in 2002. He reported no episodes of homicidality, suicidality or suicide attempts. During each interview, he reported stable mental health functioning, with no symptoms of mental illness; and no dysregulation of mood, affect, thought process, sleep, appetite, energy level, or cognition.

b) SCDC Educational/Vocational History

SCDC Records: Per his 'Inmate Search Detail Report,' Mr. Kelly earned his GED on January 11, 2005. From 2002 to 2023, he has worked as a 'General Worker;' 'Senior Custodian;' Painter;' 'Material Handler EQ QP;' and 'Wardkeeper Assistant.'

Examinee Interview: Mr. Kelly earned his GED in 2005 at Lee CI, stating, "I was in the top 5% in the state, got it on my first try." Additionally, when at Lee CI, he earned his "small business license, it was a correspondence course through Midlands Tech, through the mail, I had to review the materials and study, pay for the tests, but I didn't have the money to get it accredited." He reported no additional "training programs or certification because of a life sentence." He "would want to do college classes, through Benedict College (through the tablet), but you have to have a max out date." He "is not eligible for Benedict because of the life sentence...you have to have two years left on your sentence, most programs are not for lifers."

Regarding formal work, he worked "maintenance in Lee CI, for six months, and left to take a PI [Prison Industries] job." He worked for PI at Lee CI, "on a packaging machine, not sure for how long...maybe two years, I lost the job when I got a cell phone charge." He has also worked in the cafeteria at Lee CI for "less than two years, I think I quit, but not sure why." In later years, he has primarily worked as a "general worker" cleaning the dorm. In explanation of why he did not presently have an 'outside job' [outside of the dorm], he stated, "it's hard to get electrical and carpentry jobs because of a life sentence, hard to get decent programs with LWOP...everybody is competing for the same job, and we get put on the back burner to the people who are getting out." Further, due to recent riots at the time of the first several interviews, "SCDC shut down carpentry, and electronics, masonry, BRCI shut it down..." If given a term of years, he would like to "get to a Level 2 yard, and go to a program for a mechanic's license," stating there is a "mechanic school at McCormick." Further, should he be given a 'max out date' he would have access to several programs to assist in establishing re-entry skills. In the 2024 interview, he reported having "put in" a request to transfer to a Level 2 yard, ideally Allendale CI, due to the numerous programs available.

At the time of all interviews for the present evaluation, Mr. Kelly worked as a "dorm worker, keeping the area clean" which is not a paid position. He further stated he does not receive money from his family. Thus, as unofficial work, "I do laundry for other guys or work on electronics" such as repairing headphones, for which he receives compensation. To pass the time, he reads "a bunch of books," watches television, re-wires headphones, practices martial arts ["for exercise"], and prays daily, with attendance at weekly religious services, when available.

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c) SCDC Religious Functioning

SCDC Records: Mr. Kelly's religious preference is noted as "Islam (Muslim)" in his prison records. Specifically, on July 30, 2012, he submitted a "Request Change of Religious Preference" to formally change his religious preference to "Islam (Muslim)."

Examinee Interview: Earlier in his incarceration, Mr. Kelly "went through Kairos, at McCormick, did the Kairos walk, listened to sermons, it's designed to take you out of SCDC mentally." As his religious preferences have evolved, he has become involved with the Islam religion. Mr. Kelly now "considers myself a Muslim..." He explained that his "next door neighbor [cell neighbor] was Muslim, and we got to talking and it was interesting, it was a real culture-enriched religion..." He was "looking for structure in my life, and my neighbor gave me an introduction into the religion." He submitted a formal change of religion request in 2012, because "I needed to be on record." During each interview, Mr. Kelly reported continued involvement "in the Muslim community, going to service (Jum'ah) every week." He starts his day with prayer at 4:30 a.m. or 5:00 a.m. He "prays five times a day, go to services when they're available, Jum'ah every Friday." *[For part of the evaluation period, SCDC was on prolonged lockdown due to recent riots at Lee CI, and religious services were not available].*

Mr. Kelly uses "a lot of teachings from the Islamic communities for how I want to live, but I'm not so dogmatic that I reject other religions." He believes Islam has taught him, "basic principles of right and wrong, gives you a good guide, be a better man and turn the other cheek, forgive a debt, and choose the better path." He believes, "Muslims should effect change in their area, if someone is sick, we should visit them, and pray over them."

Within SCDC's Muslim community, Mr. Kelly "has seniority and a cool head." Thus, he unofficially works on behalf of this community to "mediate" between conflicting groups. He "tries to have people settle things nonviolently, mediating on behalf of the community, the young guys are hard to deal with or people on drugs." Additionally, during the 2023 and 2024 interviews, Mr. Kelly was observing Ramadan. He was "not eating from sun-up to sundown, can't drink water, been doing it 10 to 12 years..." With regard to Ramadan, he "tries to educate others on the merits of the fast, it's a method of cleansing and sacrifice, you're supposed to work through personal issues, supposed to fight for your own spirit...it's a month of sacrifice working on your inner problems, and a general humbleness through the whole month." In April 2024, during his final interview, he had just completed Ramadan. When asked his 'personal issues,' worked through, he stated "self-reflection, on what I did, what I do now, and what I should do."

d) SCDC Disciplinary History

SCDC Records: Per Mr. Kelly's SCDC 'Record Summary Report,' dated April 15, 2024, he has "no detainers;" "no escape history;" and "no criminal charges history." Regarding disciplinaries, he has had one infraction classified as an 'Assaultive Disciplinary,' for having weapons in his room, in February 2003. He has 11 additional infractions [2006 to 2022], classified as 'Non-Assaultive Disciplinaries,' to include having contraband (a broom and Styrofoam pieces); possessing security equipment and suspected STG information; possessing cell phones on two occasions; testing positive for marijuana; refusing a drug test; and not closing his locker.

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All infractions are detailed below per SCDC records, with Mr. Kelly's account taken during the present evaluation, and provided in italics.

Mr. Kelly's initial behavior review, on **October 4, 1998**, granted him transfer from "observation" to the open unit of death row. During this review, Mr. Kelly "asked questions, was very responsive to my comments and he appeared concerned about what he could or could not do (the rules of the unit)." The next disciplinary reference appears on a grievance form dated **July 8, 2002**, concerning Mr. Kelly's placement in SMU after his transition from death row. On this form, he wrote, "I entered the system on September 19, 1998, and have not had a disciplinary action taken against me since that time. I have a clean record."

On **February 3, 2003**, at age 24, while housed Lee CI, Mr. Kelly's room was searched and "two shanks were found, both shanks are approximately 10 inches long." They were found "under inmate Kelly as he was sleeping on them inside his mattress." He was charged with Possession of a Weapon. Mr. Kelly pled Guilty, and at his hearing indicated that he "had the shanks for his safety." He was given a "reprimand" with "20 days" of lockdown.

[During the present evaluation, Mr. Kelly explained that he was housed on Lee's Chesterfield unit, which was the "worst dorm, they were robbing people on a daily basis, regional groups were targeting others..." He reported a physical assault just prior to this infraction, "in Chesterfield, in 2003, I was new, I had a baby face, it was not a very good look, a lot of people prey on the weak..." During this assault, "a group of guys from Spartanburg tried to attack me to see how my reaction would be, tried to feel me out, wanted to see if I was soft or not, see if I had the potential to be exploited or not, they were trying to feel me out to see if I was a potential victim." From the assault, he "got a scar, gash on my head, it was either a boot or a knife, seven of them attacked me, old schools broke it up, I fought back and didn't let them beat on me, it was a test." He did not seek medical services, "because then I would have to say what happened." He stated, "that's what caused me to get a weapon after, in case they came back... It was for my protection. I was kind of new, I had never been on a yard, things were a lot more difficult, it was my first time in GP." [Of note, during his 1998 intake, SCDC records described Mr. Kelly as "body build small," and thus, more in need of protection from potential assaults].

On **December 11, 2006**, age 28, at Lee CI, a "wooden broom" was found in Mr. Kelly's cell, and he was charged with Possession of Contraband. This charge was handled "administratively," with "counseling," a "verbal reprimand," and ten days of canteen and telephone restriction. *[Mr. Kelly explained, "I just had it to clean up, I'm a very clean individual. I like to clean every day, I have an OCD thing, but it wasn't supposed to have been in the room]."*

On **February 20, 2007**, age 28, at Lee CI, officers found a cell phone and battery inside of Mr. Kelly's television. He was charged with Possession of Cell Phone or Other Communication Equipment. He pled Not Guilty, but was found Guilty and lost privileges for 365 days, with 90 days of disciplinary detention. *[Mr. Kelly stated, "me and my roommate had cell phones in the TV, we had cell phones to keep in touch with family, and I was holding a cell phone for my neighbor. My roommate was the 'hold man' in case contraband comes in, they will pay you to hold it or use it, I volunteered to hold it and put it in my television]."*

On **January 9, 2008**, age **29**, at Lee CI, during a random cell search, officers found “five unauthorized items” in Mr. Kelly’s cell, to include “one homemade file...in plain sight;” and “three make-shift hooking devices;” and “one modified Allen wrench” which were “hidden underneath a TV and towel.” He acknowledged ownership and was charged with Possession of Security Equipment Property. He pled Guilty and lost privileges for 180 days, with placement in disciplinary detention. *[Mr. Kelly stated, “I used to do woodworking and airbrushing, for hobby craft, I still had a lot of stuff in the room, I wasn’t supposed to. The officer (Patterson) told me, ‘I know this is hobby craft stuff, but you shouldn’t have it in the room.’ He had an “Allen wrench to tighten up the valve on an air compressor for airbrushing, and a file, a sanding board for woodworking, it wasn’t supposed to be in my room.” He had “been on the Richland Unit which was a character dorm where hobby craft was big, but then they moved me to another unit over the cell phone charge, it was a different kind of unit, my tools were not allowed to be ‘in-cell hobby craft.’” [Hobby craft are sanctioned supplies on particular units, and ordered through the SCDC catalog].*

On **January 28, 2008**, age **29**, at Lee CI, during a “routine shakedown,” of Mr. Kelly’s room, officers found “clear/white bottles with white substance that smelled like shoe polish” and “three sheets suspected STG [Security Threat Group] writings, and/or websites.” No further detail was provided on the content, and an ‘STG Related’ box was checked as “unknown.” He was charged with Organization Activity or Participation in STG. Records are unclear regarding any finding of guilt or disciplinary action. *[Mr. Kelly stated, “a bottle with white substance” was found. He clarified, “it was white paint, to paint the room, but I wasn’t supposed to keep it in my room. I had gotten it from another maintenance worker to do touch ups. I’m very OCD, I’ll recalc my toilet, I just painted my room, I have a spice rack, I want to control the cleaning and cooking.” He did not know what the ‘STG writings’ referenced, and denied any involved in STG’s.].*

On **February 28, 2008**, age **29**, at Lee CI, Mr. Kelly was charged with Stealing after several books were “recovered” from Mr. Kelly’s room, which had been “purchased from an Islamic bookstore in Maryland using a stolen credit card number.” This charge was originally handled “administratively,” with counseling, a verbal reprimand and loss of canteen for 10 days as recommended sanctions. However, Mr. Kelly requested the matter be referred to a formal disciplinary hearing. At this hearing, Mr. Kelly pled Not Guilty, however, was found Guilty and given 90 days of privileges restriction. *[Mr. Kelly stated he had ordered items from another inmate “I gave him a whole list of books, I didn’t pay him, he was just ordering books.” He stated “I didn’t know the items were being ordered with a stolen credit card.” This resulted in a later charge, detailed below].*

On **November 16, 2008**, age **30**, at Lee CI, Mr. Kelly was charged with Refusing or Failing to Obey an Order due to keeping his locker doors open despite directives to close them. This charge was handled “informally” with “counseling” and “verbal reprimand.” *[Mr. Kelly stated this was a group charge, “they charged 17 people, I was probably asleep and didn’t hear them.”].*

On **March 4, 2009**, age **30**, at Lee CI, Mr. Kelly’s jacket was searched during a room search, and officers found “two pieces of Styrofoam cut in the shape of squares taped together along with another piece of Styrofoam.” He was charged with Possession of Contraband, which was handled “administratively” via “counseling” and “verbal reprimand.”

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[Mr. Kelly stated “I had pieces of Styrofoam taped together. I put it under the table to keep it from rocking, and put it behind the locker to keep it steady, they gave us Styrofoam trays...”]

On **March 26, 2009**, at age **30**, at Lee CI, a detainer was issued by SCDC for Financial Transaction Card Fraud due to allegations that Mr. Kelly “while at Lee Correctional Institution did have in his possession credit cards, social security numbers and other personal biographical information that did not belong to him. A corresponding Arrest Warrant [K-243637] for Financial Transaction Fraud, dated March 26, 2009 from Lee County was marked as “VOID.” The warrant stated that “between November 1, 2007 and January 31, 2009, while at Lee Correctional Institute in Lee County...[Mr. Kelly]...did commit the crime of Financial Transaction Fraud by having in his possession one or more credit cards that did not belong to him. The defendant also had in his possession numerous social security numbers, dates of births and other personal biographical information that did not belong to him.” On **June 8, 2015**, this detainer was “removed per police services.” *[Of note, on the warrant there is no date of delivery or service on Mr. Kelly, and no signature of the judge or law enforcement officer regarding service.]*

Mr. Kelly was asked about this outside arrest warrant marked “VOID.” He stated he was never served with a warrant, and “nobody took a statement from me, or came to see me from investigation, I first learned about the warrant in August 2017” when the present evaluation started. He stated, “SLED never talked to me...I think they only charged me because I was in possession of the books].”

On **April 11, 2012**, at age **33**, Mr. Kelly was found with a cell phone and three chargers in his living area. He “became very agitated” and thus officers “put him in cuffs and took him to lock up.” He was under escort to SMU, when he “stated that he had a cell phone and battery in a pouch in his pants.” Officers retrieved the items and charged him with several counts of Use or Possession of Cell Phones or Other Communication Device. He pled Guilty, and lost privileges for 760 days, with 360 days of disciplinary detention. *[Mr. Kelly stated, “I had a couple of cell phones I was working on. I used to make a little living repairing electronics...” He “also had a cell phone in my pocket.”]*

On **January 13, 2013**, at age **34**, at McCormick CI, Mr. Kelly tested positive for THC after being randomly selected. Per the Incident Report, he was “selected for a random drug test,” which “was his first failed drug test.” He was charged with Use or Possession of Marijuana, or Unauthorized Drugs. He pled Guilty and was given 360 days of restrictions. *[Mr. Kelly acknowledged he “failed a drug test.” Regarding drug use in prison, Mr. Kelly “smokes once in a blue moon, once every couple months, it’s too expensive.” He consumes alcohol “every now and then, once in a blue moon.” He reported no other drug use in prison. Of note, a medical screen from October 2014 supports his report, and indicated “occasional” marijuana and alcohol use, with amount “not much.”]*

On **January 8, 2021**, at age **42**, Mr. Kelly incurred a charge of Possession of, or Attempt to Possess a Cellphone. Per the SCDC Incident Report, officers searched Mr. Kelly’s room based on an “anonymous tip” and observed Mr. Kelly attempting to conceal an item. When asked to provide the item, Mr. Kelly “complied” and gave officers a cell phone. He lost privileges for 90 days. *[During the present evaluation, Mr. Kelly conceded he had a cell phone in his room].*

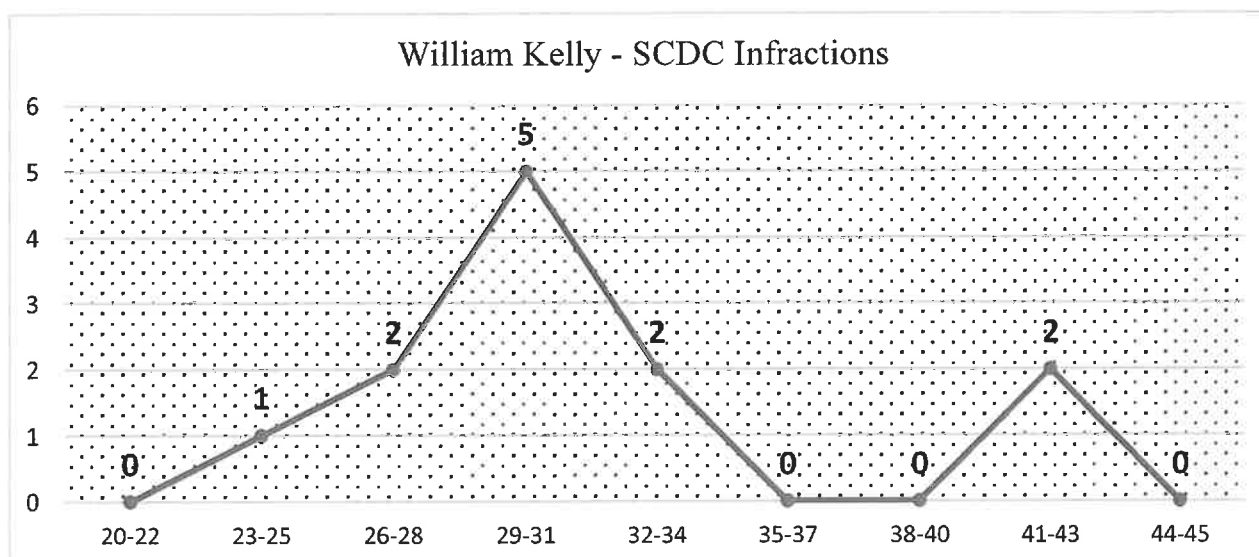
Name: KELLY, William
Date of Birth: [REDACTED], 1978

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His last known infraction is from **April 20, 2022**, at age **43**, when he was charged with Use and/or Possession of Narcotics, Marijuana, Unauthorized Drugs. Per the SCDC Incident Report, officers selected Mr. Kelly to “take a drug test. Inmate Kelly refused to take a drug test. End Report.” It was noted that he pled Guilty, and received a loss of privileges. *[During the present evaluation, Mr. Kelly stated he refused a random drug test, which meant an “automatic failure,” as if he had tested positive. Thus, he incurred the charge, resulting in loss of privileges. He believes he was unjustly chosen, and so refused. He stated he was not using drugs, as it was Ramadan at the time. He reported very little use outside of Ramadan, and only marijuana. He believes other drugs “cause irreparable danger, literally changes the way you think, don’t need to try it.”].*

In consideration of Mr. Kelly’s total history of infractions, the above narrative represents 12 infractions, from ages 20 to 45. By report submission, he had been incarcerated for 9,353 days, with 12 infractions, meaning he has statistically incurred a charge every 779 days. Some incidents have been very minor (e.g., not closing his locker, having pieces of Styrofoam, or having a broom in his room, etc.), with others more serious (e.g., having items classified as weapons). None have involved any sort of violence or aggression. Although he has one infraction for having weapons, this was 21 years ago, at age 24. It occurred after he was declassified to a general population yard, from the secure housing of death row. He reported having these items for protection after an assault due to his newness and youth. There is no data to indicate he has ever possessed such instruments since, or ever used such instruments.

In the chart below, Mr. Kelly’s frequency of infraction occurrence is presented in three-year increments to represent developmental periods beginning at age 20, to his present age of 45. Mr. Kelly’s infractions reflect an increase of infractions in his 20’s, with a spike around age 30, and a decline thereafter. This spike is expected and well-documented in the literature, as younger inmates account for most disciplinary problems given their age and institutional adjustment. The decline from this ‘spike’ has fallen to near zero infractions as he has aged.

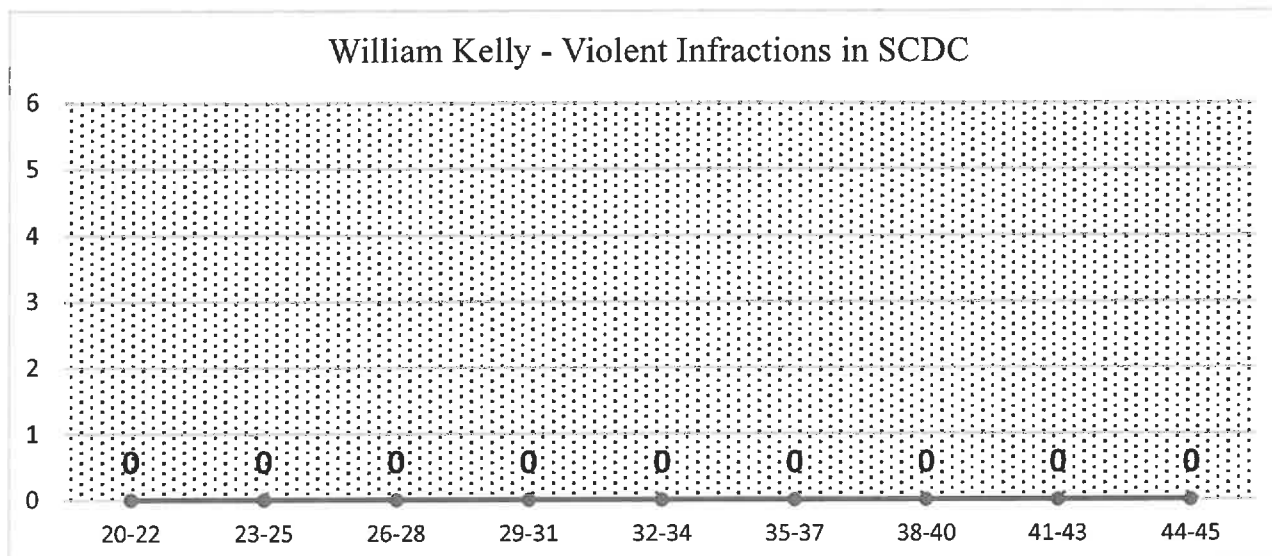


*2009 detainer/warrant not included as it was voided, and withdrawn.

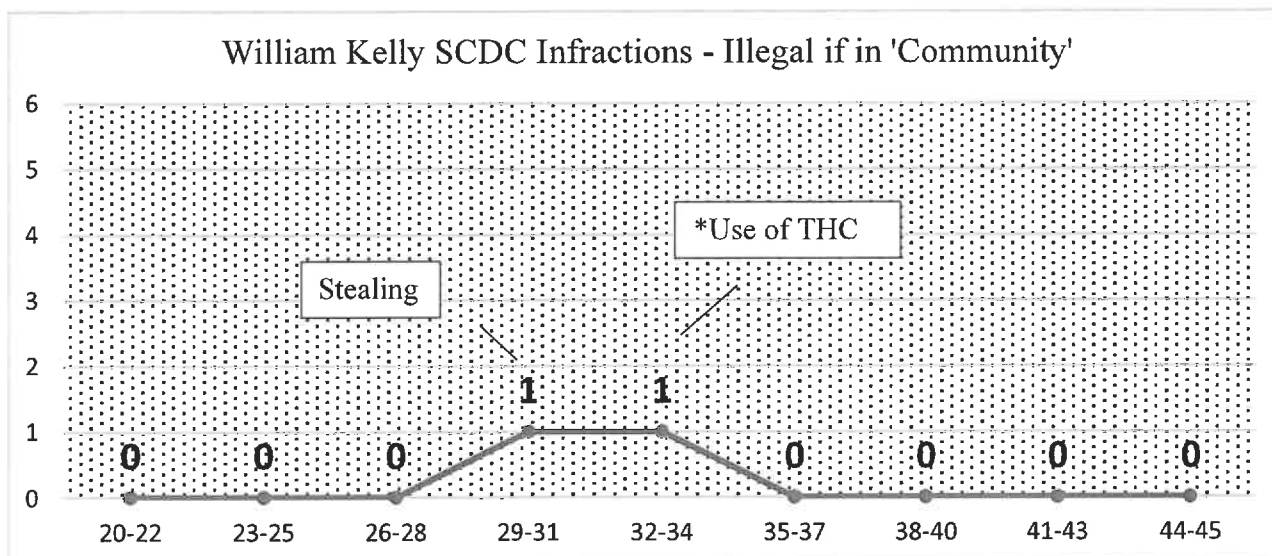
Name: KELLY, William
Date of Birth: [REDACTED] 1978

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The second chart illustrates that no disciplinary infractions have involved violence or aggression towards others.



The third chart reflects what prison infractions would be considered illegal, if Mr. Kelly were residing in the community.



*Only in jurisdictions where cannabis is illegal.

e) SCDC Familial/Interpersonal Functioning

Examinee Interview: Over his incarceration, Mr. Kelly maintained frequent contact with his mother by phone, who visited him often. Their contact significantly decreased after her stroke in January 2017, as she was unable to make the visits, or communicate via phone. He spoke with his stepfather, who held the phone up to his mother, “she could understand what I said, but she couldn’t talk.” After his mother’s death in May 2021, he no longer speaks with his stepfather. He used to speak sporadically with his father, however, the last time they spoke was just after his mother’s passing, in 2021. Mr. Kelly stated, “dad didn’t care [about her death], and I have no plans to contact him again.” He “still talks to my brother [Michael],” with regularity, who is married, has children, and lives in Washington State. If given a term of years, Mr. Kelly’s release plans would be to reside with his brother in Washington State. Mr. Kelly has “not talked to Michelle [sister] in years, she still runs from it [family trauma], but Michael has accepted it.” He did not know the whereabouts of his sister, and last saw her in 2017.

Mr. Kelly reported no visits “in a good many years” and “no serious [romantic] relationships” in prison. However, he has established close friendships. He cited another inmate who is a very close friend, “like a brother, I talk to his Pops more than my people.” They are the same age, and met many years ago in SCDC. He spoke of this individual, and others on his unit, as “family” stating “most of my family is in my dorm, the person I’m closest too, and his family.” Although he has qualified for a character dorm over the years, Mr. Kelly had been reluctant to move as it would mean leaving these individuals, with whom he has formed close bonds.

Collateral Interview [Brother]: His brother has kept in contact with Mr. Kelly during his incarceration, who he describes now as “mellow, easy going.” He last saw Mr. Kelly “quite a few years ago” when he returned to South Carolina for a family funeral. His residence in Washington State precludes visits with any regularity, but they speak regularly by phone. If released at any point, his brother offered his home without hesitation, “he could live with me” and would have “my full support.” This sentiment was expressed in 2020, during his initial interview with the examiner, and again in 2024, during a follow-up contact.

Research-Based Concepts

In addition to consideration of individual factors, research-based concepts of a) the ‘age-crime curve;’ b) ‘desistance;’ and c) the fact that a youth’s character is not well-formed during adolescence; are important factors in considering the likelihood of rehabilitation.

a) Age-Crime Curve

The ‘age-crime curve’ is an important factor in the rehabilitation of youthful offenders. The typical progression of criminality is to ‘age out’ over the life-course, with the intensity and frequency of violent and criminal acts declining with age. As such, the ‘age-crime curve’ is a well-established finding in criminology, and described as “...crime rates rise rapidly in the teenage years, peak in late adolescence, then decline through the life course.”⁵³

⁵³ Steve Bosick, *Operationalizing crime over the life course*, 55 CRIME DELINQ. 472, 472 (2009).

This finding has been described as “the most important empirical regularity in criminology”⁵⁴ and “has been consistently observed in both men and women, for most types of crimes, and across several nations and historical periods.”^{55, 56}

Research indicates that “the shape of this curve encompasses four components: (1) a rapid increase in mid-adolescence, (2) a peak in the curve in late adolescence, (3) a precipitous decline in early adulthood, and (4) a gradual, monotonic decline thereafter and throughout the life-course.”⁵⁷ The age-crime curve also holds strong for incarcerated populations, with a sharp decline in institutional infractions and violence after age 30.⁵⁸ This decline is reflected in Mr. Kelly’s institutional history. Based on the age-crime curve phenomenon, at age 45, Mr. Kelly is well outside the range for peak criminal activity as reflected by the ‘age-crime curve.’

b) Desistance

The age-crime curve concept is closely aligned with the robust finding that most adolescents generally desist from criminal activity as they enter young adulthood, with only an approximate 5% who continue with serious and persistent antisocial conduct over the life course.⁵⁹ This theory of desistance holds true even for the adolescent offender population charged with serious delinquent activity, including homicide.⁶⁰ Therefore, “even among juvenile offenders, who typically generate the greatest concern among policymakers, practitioners and the public, the vast majority are not likely to persist in high levels of antisocial behavior into adulthood...”⁶¹

Of note, one extensive study, “arguably the longest longitudinal study of crime to date” examined serious, persistent offenders from ages 7 to 70, with a 35-year follow-up. They found that “the classic age-crime pattern is replicated even within a population that was selected for their serious, persistent delinquent activity.” Results indicated “...Despite the interaction of childhood with criminogenic family environments, we see no evidence of a group, that prospectively at least, continues to offend at a high rate throughout the life course.” Further, “these findings...suggest that ‘life-course persistent’ offenders are difficult, if not impossible to identify prospectively using a wide variety of childhood and adolescent risk factors.”

⁵⁴ Daniel S. Nagin & Kenneth C. Land, *Age, Criminal Careers, and Population Heterogeneity: Specification and Estimation of a Nonparametric, Mixed Poisson Model*, 31 CRIMINOL. 327, 331 (1993).

⁵⁵ Daniel M. Blonigan, *Explaining the Relationship Between Age and Crime: Contributions from the developmental literature on personality*, 30 CLIN. PSYCHOL. REV. 89, 90 (2010).

⁵⁶ T. Hirschi & M. Gottfredson, *Age and the Explanation of Crime*, 89 AM. J. SOCIOL. 552 (1983).

⁵⁷ Blonigan *supra* note 54.

⁵⁸ Mark D. Cunningham & T.J. Reidy, *Integrating Base Rate Data in Violence Risk Assessments at a Capital Sentencing*, 16 BEH. SCI. LAW 71 (1998).

⁵⁹ *Id.*

⁶⁰ Mulvey, E. P., et al., *Trajectories of desistance and continuity in antisocial behavior following court adjudication among serious adolescent offenders*. 22 DEV. PSYCHOPATHOL. 453 (2010).

⁶¹ Kathryn C. Monahan et al., *Trajectories of Antisocial Behavior and Psychosocial Maturity from Adolescence to Young Adulthood*, 45 DEV. PSYCHOL. 1654, 1655 (2009).

In sum, “aging out of crime is thus the norm - even the most serious delinquents desist.”⁶² Thus, “given the evidence of a broad trend of self-desistance of criminal misconduct among even serious juvenile offenders, it would be difficult to confidently anticipate on the basis of existing research which individual juvenile defendants would *fail* to follow this trend.”⁶³

Research has also shown that the type of crime or seriousness of the crime are not predictive factors of desistance,⁶⁴ but that the primary factor distinguishing those youth who desist from criminality and those that do not, were strides in psychosocial maturity. Specifically, “*the major factor that distinguished youth who persisted [with offending] from those who desisted was normative psychosocial development. Specifically, youth who persisted in offending displayed less psychosocial maturity (particularly in impulse control, suppression of aggression, and future orientation), while youth who desisted displayed developmentally normative increases in these domains.*”⁶⁵

Over 25 years in custody, collateral data indicate Mr. Kelly has matured well past his adolescence, into an adult with his own mindset, values, and goals. Such is illustrated by comparison of his pre-trial detention center records, as compared to his post-conviction incarceration records. In detention, Mr. Kelly struggled with anger, was described as feeling “lost,” and as having “very limited insight into his behavior.” He also had a much higher ratio of disciplinarys, with the nature indicating immaturity (e.g., cursing, refusing orders).

However, during his incarceration, records indicate his maturity has evolved over the expected and normative developmental course. Early on, he earned his GED, and attempted additional coursework. He has incurred very few disciplinary infractions, with none violent or assaultive. His record is indicative of the ability for self-control, effective behavioral inhibition and the ability to exercise good judgment. Over time, and with deliberation, he has developed a spiritual and moral identity, based on concepts rooted in gratitude, self-reflection, conflict-avoidance and service. He has also formed close bonds with others. He described familial-like connections, indicative of the ability to interpersonally connect and relate to others. He is able to reflect upon his situation, and life choices, with reasoned insight and emotional maturity that comes with age and experience.

Thus, Mr. Kelly has demonstrated ‘normative’ strides in psychosocial maturity, by exhibiting the ability to control impulses; eliminate aggression as a response; and possessing much improved future orientation.

⁶² Robert J. Sampson & John H. Laub, *Life-Course Desisters? Trajectories of Crime Among Delinquent Boys Followed to age 70*, 41 CRIMINOLOGY 301, 311, 323, 330 & 315 (2003).

⁶³ Robert Kinscherff & Thomas Grisso, *Human Rights Violation and Standard 1.02: Intersections with Human Rights Law and Applications in Juvenile Capital Cases*, 23 ETHICS & BEHAVIOR 71, 75 (2013).

⁶⁴ Mulvey, *supra* note 59.

⁶⁵ Elizabeth Cauffman et al., *A Developmental Perspective on Adolescent Risk-Taking and Criminal Behavior*, In THE HANDBOOK OF CRIMINOLOGICAL THEORY 108 (Alex R. Piquero, ed., 2016).

c) 'Character Not Well Formed'

Adolescence is a transitional period, with continued emotional, neurocognitive and psychosocial maturation, stemming from continued brain development and accumulation of life experience. The adolescent is 'not done' developing or forming a 'settled character' and may behave, think, and act differently once they reach adulthood. As such, science simply cannot predict with accuracy those juveniles who will continue to engage in criminality and aggression as they mature, and those who will not, given that their character is not 'well-formed' at the time of the juvenile offense. This is a particularly difficult task when considering this issue over a decades-long sentence. Exactly "how an individual will develop, particularly with respect to responsible behavior in adulthood as brain resources increase, cannot be determined in adolescence." However, to judge the adolescent's character on criminal behavior committed as a teenager, as a prognosticator of continued criminality, is associated with "a risk for false positives that could incorrectly identify an individual as a life criminal."⁶⁶

In Mr. Kelly's case, he is decades past his adolescence, and thus, his character formation is now settled. At 17, Mr. Kelly's 'character was not 'well formed,' due to neurobiological immaturity and enhanced vulnerability to the influences around him. At age 45, he is own person, with an intact and mature 'character.' This was reflected by his ability for insight into childhood dynamics, and how his views have evolved with age.

He explained that, during his youth, "I had anger and resentment towards mom [for his father's abuse]. I was the youngest, and no one was trying to help me, I was mad at my brother and sister too." Over time, he has come to the realization, "that everybody was just trying to survive." He also believes his incarceration 'saved' him from a worse fate. He stated, "I was able to be separated from my family [through prison], so I'm in a better place than my brother or sister. I fared better," as they continued to be exposed to the family. He also noted that both siblings 'separated' in their own way, "my brother separated by going into the military, and moving to Washington State, my sister moved away, and I separated by going to prison, it was a cure for us..." He stated, "if left in that life, I would be the worst of the worst, I would be just like my dad, but in prison, it gave me a different chance in life, helped bring me into a new family." He stated, "how I was raised [trauma, abuse], it's now just a point of fact, that's all it is, it doesn't affect me anymore, nothing can get me close to that anymore, even living in this environment." He stated, "I'm not scared anymore, I know what I was scared of, and now, nothing scares me." Thus, his 'character' or 'person,' has matured beyond his prior susceptibility to abusive familial dynamics, into development of his own beliefs, and convictions.

Further, Mr. Kelly's character has 'evolved' and matured regarding the homicide offense, including insight into victim impact, and his role. After the incident, he "used to have night terrors and panic attacks. I wouldn't talk about it, had flashbacks, nightmares, would wake up screaming, thinking about it too much...It still upsets me a lot, but doesn't break me down like it used to." However, he continues to have "sleepless nights," over thoughts of the offense, and "it comes to my mind on a daily basis, how it affects the victims, their lives, I destroyed their spirit, Neal never married again, Alex growing up with a mother, I obsess over the impact."

⁶⁶ Beatriz Luna, *The Relevance of Immaturities in the Juvenile Brain to Culpability and Rehabilitation*, 63 HASTINGS LAW J. 1469, 1483 (2012).

Mr. Kelly is also still visibly distressed when speaking about the offense. When asked about his distress, he stated, “I see it as a penance to talk about it, I destroyed lives...I hate myself a lot, she didn’t deserve that.” If given the opportunity to address the victim’s family, he would tell them, “I can’t make it up, there’s nothing I can do, I would apologize and wish I could take her place...just let them hate me.” He added, “they did not deserve what happened, I live my life to make up for that.” He is also “very concerned for the victim’s family in court,” regarding re-opening emotional wounds. He “wants to go out of my way to not hurt the husband’s family, keep it as boiler plate as possible. I don’t want to do no more harm, than I’ve already done...” He added, “I can’t give her life back. But I can try to live the best way I can. I don’t harm people, or bully people, I try to help people as much as possible...I don’t care too much about my own life...not too concerned what happens to me.”

Finally, his ‘character’ evolvement, from adolescence to adulthood, is underscored by a letter Mr. Kelly wrote the mitigation investigator, in October 2020. He wrote that he, “*look[s] for the hidden blessings in things,*” as he now had time to write the letter due to COVID lockdowns. He thanked her for a book she recently sent, which was a “*blessing in disguise.*”

He continued, “*Everyone needs a lil blessing here and there I tend not to look for any myself. Rather give than receive. That’s the path I’ve chosen for myself. The way I see it after the damage I’ve done to land me in here. Its only right that I give back by trying to be the best version of myself I can be...you’ve probably heard me say it before. Prison Saved me. We talked about my life before prison. The mental, physical...damage that put on me left no room for hope in my vocabulary... no friends to speak of. No parties, after school hangouts. Never felt comfortable inviting people over. Even neighbor kids were scared to come down to my house. (too much hollering) to quote one person who lived on the hills from me...the devil [father] lives down here... ”* Mr. Kelly also describes isolation from his siblings as an adolescent, as they were “*busy dealing with their own internal struggles.*” He explained, “*Before prison, I wasn’t operating mentally like a normal teenager should. Kind of an understatement to say the least.*”

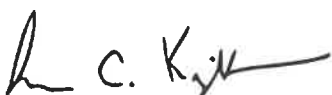
Mr. Kelly further wrote, “*coming to prison honestly took a huge weight off my shoulders. Showed me exactly what and who I don’t want to be or ever will be again. Never again can or will the circumstances that landed me in here ever be created again. So looking back on that, I am at peace with myself. As far as being the man I am today; I like myself! I am not bitter or resentful of my situation. I know what put me here. I regret it. It is in the forefront of my mind in every decision I make. The victim’s family or the victims themselves Never deserved what I did to them. Or my family. Never will I ask for forgiveness. My life is not my own. My life is in their hands as it should be and if one day they choose to forgive me, then I hope they do it for their own sense of peace. They owe me nothing.*” He noted, “*the way I give back is to be the best I can be. I work hard at it.*” Mr. Kelly concludes by writing, “*we never know what the future holds. Maybe one day I’ll be a success story outside these walls and people can take pride in knowing me despite my past, and if not, then I still can’t complain.*” He signs the letter ‘Billy/Will,’ noting, “*PS (more of a Will kind of guy, it’s an age and past kind of thing.)*”

Mr. Kelly’s preference for the name ‘Will’ is emblematic of social maturity, emotional growth and evolvement of ‘character.’ He was raised within abusive family dynamics as ‘Billy,’ and the offense occurred during adolescence, as ‘Billy.’ He no longer identifies with this persona, preferring a name that represents the transformed individual he sees himself as today.

SUMMARY: Based on the totality of data gathered in the evaluation, to include clinical interviews with Mr. Kelly; interviews with multiple family and extrafamilial sources, former trial attorneys, and former mitigation specialist; and a review of collateral records, to include academic; psychosocial; legal; and correctional; the following is found as summarized.

- As a function of age [17] and corresponding neurobiological immaturity, Mr. Kelly would have been subject to the '*Hallmark Features of Youth*' at the time of the homicide. Prominent features for Mr. Kelly included underdeveloped future orientation and foresight; impulsivity; recklessness; poor consideration of risk; a focus on immediate situational rewards over long-term consequence; and psychosocial immaturity of reasoning, judgment and decision-making. Beyond a categorical application, collateral data indicates Mr. Kelly functioned below his chronological age, with social and cognitive immaturity as compared to his peers.
- Mr. Kelly's '*Family and Home Environment*,' consisted of severe physical and emotional abuse, and domestic violence, perpetrated by his father, who exerted 'coercive control.' Abusive dynamics were detailed by numerous sources familiar with the family, which described Mr. Kelly's home environment as harsh, violent, and brutal. Such dynamics had an adverse impact on Mr. Kelly's social development, and compromised his ability for anger expression, with both factors implicated in the homicide offense.
- The '*Circumstances of the Homicide*' were an extension of his family and home factors due to repressed anger and desperation; in addition to adolescent traits of underestimating risk and consequence, poor future orientation, and difficulty thinking beyond immediate situational factors. Thus, 'familial pressures' and 'hallmark features' were both contributory factors.
- Upon arrest, he was subject to the '*Incompetencies Associated with Youth*,' via deficient appreciation and application of *Miranda* due to inexperience, and neurobiological immaturity in reasoning and future orientation. Further, developmental factors related to his abusive home environment adversely impacted his ability for trust and effective collaboration with his attorneys.
- Regarding the '*Possibility of Rehabilitation*,' research overwhelmingly supports an adolescent's desistance from crime as they age, with a 'heightened capacity for change.' Mr. Kelly's course in SCDC has been strongly reflective of such, with very few disciplinaries, and none violent. He has demonstrated significant cognitive and social maturation, with ability for reflection and insight regarding the offense conduct, underscored by explicit and longstanding remorse.

Respectfully Submitted



Susan C. Knight, Ph.D., ABPP
Licensed Clinical Psychologist
Board-Certified Forensic Psychologist

April 28, 2024

Date Signed

Name: KELLY, William
Date of Birth: [REDACTED], 1978

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Susan C. Knight, PhD, ABPP
Board-Certified Forensic Psychologist

AGENCY I.D.
SCD 0020000

AIKEN COUNTY SHERIFF'S OFFICE
INCIDENT REPORT

CASE NUMBER

N:10

0009600407

000 000000		INCIDENT TYPE		COMPLETED		FORCED ENTRY		PREMISE TYPE		CRIM. INTENSE		TYPE VICTIM	
1. Missing Person				YES NO		YES NO		Home				Individual	
2.												Business	
3.												Financial Inst.	
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)		Batesburg, S.C.		ZIP CODE		29006		WEAPON TYPE		N/A		Government	
INCIDENT DATE		1-5-96		2100		1-6-96		1426		1429		1600	
24 HR. CLOCK		12		MIDNIGHT		12		MIDNIGHT		12		MIDNIGHT	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		Kekky, Julia		RELATIONSHIP TO SUBJECT		PA		RESIDENT		YES NO		YES NO	
CITY		Batesburg		STATE		S.C.		ZIP CODE		29006		LOCATION NO.	
VICTIM'S NAME (LAST, FIRST, MIDDLE)		Kekky, William A.		RELATIONSHIP TO SUBJECT		SL		RESIDENT		YES NO		YES NO	
HEIGHT		508		WEIGHT		135		HAIR		BRN		EYES	
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		"Bibby"		CITY		Batesburg		STATE		S.C.		ZIP CODE	
ADDRESS				CITY		Batesburg		STATE		S.C.		ZIP CODE	
COMPLAINT OF ANY NON-VICTIM				CITY		Batesburg		STATE		S.C.		ZIP CODE	
INJURY (YES) = YES NO		EXPLAIN		VICTIMING (USING ALCOHOL) = YES NO		UNL. II		DANG. = YES NO		UNK. II		TYPE	
VICTIMING (USING ALCOHOL) = YES NO		UNL. II		DANG. = YES NO		UNK. II		TYPE					
TWO-WAY VEH		ONE-WAY VEH		EFFECTIVE		ACOM. II		OTHER		ALONE II		ADMITTED II	
SUBJECT		NAME, LAST, FIRST, MIDDLE		RACE		SEX		AGE		ETH		DATE OF BIRTH	
PUNAWAY		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		CITY		NOV. 27, 1996		0098		DATE TIME OF INTERVIEW		DATE TIME OF ARREST	
WANTED		ADDRESS		CITY		NOV. 27, 1996		0098		DATE TIME OF INTERVIEW		DATE TIME OF ARREST	
ARRREST		SUBJECT (NO. 1) USING ALCOHOL (1) YES NO		THINK		ARRESTED MEAN OFFENSE		YES NO		DATE TIME OF INTERVIEW		DATE TIME OF ARREST	
JAN.		SUBJECT (NO. 1) USING ALCOHOL (1) YES NO		THINK		ARRESTED MEAN OFFENSE		YES NO		DATE TIME OF INTERVIEW		DATE TIME OF ARREST	
SUBSTANCE		DRUGS: YES NO		UNK. II		TOTAL # ARRESTED		CHARGE #3					
CHARGE #1						CHARGE #2							
The compl. (J. Kekky) reports that her son the vict. (W. Kekky) had left their residence at 2100 hrs on 1-5-96, enroute to the night club "The Zoo" in Columbia, S.C. - Driving A 85' Mercury, grey lt. blue in color. The victim has not returned as of 1-6-96 at 1500 hrs.													
Continued													
JURISDICTION OF THE LOCAL LAW ENFORCEMENT AGENCY													
APPROVED AND FORWARDED BY SARVING AGENCY													
TOTAL VALUE													
TYPE (GROUP)													
STOLEN													
DAMAGED													
BURNED													
RECOVERED													
RECEIVED													
SUBJECT IDENTIFIED													
SUBJECT LOCATED													
ACTION													
ADJ. CLEARANCE													
ARRESTED UNDER 18													
ADJUDICATION IS AND OVER													
EX CLEAR UNDER 18													
EX CLEAR AND OVER													
UNRECORDED													
DATE													
UNIT NUMBER													
REASON FOR EXCEPTIONAL CLEARANCE: 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DECLINES COOPERATION													
REPORTING OFFICE (R)													
1-6-96 1229													
POL. DIV. 1													
OFFICER													

AGENCY I.D.
BCD

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

NOIC

INO. ENDO.

000.960.40.2

PAGE 2 OF 2 PAGES.

☒ ORIGINAL REPORT ☐ MODIFIED ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY	
---	--	---	--	--	--	---	--

VICT/SUBJ. I.D. OVERFLOW ☐ COMPLAINANT ☐ VICTIM ☐ SUBJECT ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE	
	☐ VICTIM NO. ☐ VISIBLE INJURY: ☐ NO ☐ YES EXPLAIN:		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES EXPLAIN:		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK. DRUGS: ☐ NO ☐ YES TYPE:		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED			
	☐ SUBJECT NO. ☐ USING ALCOHOL: ☐ NO ☐ YES USING DRUGS: ☐ NO ☐ YES TYPE:		☐ UNK.							
	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE	
	☐ VICTIM NO. ☐ VISIBLE INJURY: ☐ NO ☐ YES EXPLAIN:		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES EXPLAIN:		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK. DRUGS: ☐ NO ☐ YES TYPE:		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED			
	☐ SUBJECT NO. ☐ USING ALCOHOL: ☐ NO ☐ YES USING DRUGS: ☐ NO ☐ YES TYPE:		☐ UNK.							

Information told by the Compt to P/O was that the victims were "Shirley Slicley" was the victim in a Armed Robbery and Homicide at a Kentucky Fried Chicken Restaurant in Columbia, S.C. Also Cpl. Cox-Cross of Columbia PD 1-803-532-9661, Had called the Compt (J. Isely) looking for the missing victim (W. Isely) and had advised her to make a missing person report with ACSD.

"Continued"

STATUS ☐ STOLEN ☐ RECOVERED ☐ FOUND ☐ TOWED ☐ SUSPECT ☒ VICTIM		TYPE ☒ VEHICLE ☐ GUN ☐ BOAT ☐ LICENSE PLATE ☐ SECURITIES/BONDS, STOCKS ☐ ARTICLE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
SERIAL AND/OR OWNER APPLIED NO. YEAR OF REGISTRATION MODEL YEAR OF EXPIRATION STYLE COLOR MAKE TYPE H. BLUE DENOMINATION ISSUES SECURITIES DATE		STATE YEAR 85 MAKE Mercury TYPE				
MISCELLANEOUS TOTAL VALUE						

TYPE (GROUP) ☐ STOLEN ☐ DAMAGED ☐ BURNED ☐ RECOVERED ☐ SEIZED	SUBJECT IDENTIFIED ☒ YES ☐ NO	SUBJECT LOCATED ☐ YES ☒ NO	☒ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ APPREHENDED UNDER 18 ☐ APPREHENDED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINED COOPERATION. 5. ☐ JUVENILE - NO CUSTODY		APPROVING OFFICER DATE 1-6-96 3779 FOLLOW-UP INVESTIGATION YES NO ☐ CIO			



Drucy,

Oct. 28, 2020

Hi there 😊 Trying this again. (Because the first time went so well) Smh. SCDC is such an inspiration... NOT. Curious to what I mean? Long story short, I mailed out letter to you 3 weeks ago and get it back today from inmate dorm-workers. Evidently my letter and a few others were sitting in officers desk. (Never to be mailed) Ask for tylenol for headache, get disappointment instead. Honestly not surprised though. LOL Still no tylenol either by the way. With the state of things around here now.

Lockdown for covid and an abundance of boredom. Might as well do something different today and rewrite this letter.

Got to look for the hidden blessings in things. I hate writing. Always been a fan of the face to face. But back to the reason I wrote in the first place.

Thank you! I am going to assume you were the one who ordered that book for me — Punching The Air? Not many other likely suspects send me books, not in a long while anyway. If not, then still a blessing in disguise.

Everyone needs a lil blessings here and there. I tend not to look for any myself. Pather give than receive. Thats the path I've chosen for myself. The way I see it after the damage I've done to land me in here. It's only right that I give back by trying to be the best version of myself I can be.

Dad to say, but you probaly heard me say it before. Prison Saved me. We talked before about my life before prison. The mental, ~~A~~ physical (did I say mental?) damage that put on me left no room for hope in my vocabullary (spelled that wrong probaly).

No friends to speak of. No parties, no often school hang-outs. Never felt comfortable inviting people over. Even neighbors kids were scared to come down to my house. (Too much hollaring) to quote one person who lived on the hill from me... the devil lives down there. Duh, your talking about My house. Needless to say, I was very anti-social. Wonder if people in school even knew if I knew how to talk. Started off with a stutter at a young age. Thankfully a beautiful person helped me get rid of that.

Eternally grateful.

over →

Even Jessie, whom you heard me talk about was more friends with my brother before he was with me. That didn't develop till ~~when~~ Michael went to the Navy. Even my Brother and sister didn't have much time for me. They were busy dealing with their own internal struggles. Needless to say. Before prison I wasn't operating mentally like a normal teenager should. Kind of ~~an~~ an understatement to say the least.

Coming to prison honestly took a huge weight off my shoulders. Showed me exactly what and who I don't want to be or even will be again.

Never again can or will the circumstances that landed me in here ever be created again. So looking back on that, I am at peace with myself.

As far as being the man I am today! I like myself! I am not bitter or resentful of my situation. I know what put me here. I regret it. It is in the forefront of my mind in every decision I make.

The victims family or the victims themselves Never deserved what I did to them, Or my family. Never will I ask for forgiveness. My life is not my own. My life is in their hands as it should be and if one day they choose to forgive me. Then I hope they do it for their own sense of peace. They owe me nothing.

With all that. The way I give back is to be the best I can be. I work hard at it. Hopefully one day more people will see it.

(Not much room for that in here) LOL. Its my life. I make the ~~best~~ best of it.

Meeting good people along the way helps to. Hint-Hint. Talking about you and your ~~to~~ husband. We never know what the future holds. Maybe one day I'll be a success story outside these walls and people can take pride in knowing me despite my past. And if not, ~~then~~ I still can't complain.

These are hard times. Stay safe.
Sending my love and respect.

Billy / Will

~~BTW~~ P.s (More of a Will kind of guy)
Its an age & past kind of thing

RNEP590D
REPORT 1

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFENDER SUMMARY

INMATE NO: 5061

NAME: KELLY, WILLIAM ARTHUR

***** PERSONAL/IDENTIFICATION DATA *****

RACE-----:WHITE	FBI NUMBER-----:1138011R1
SEX-----:MALE	BIRTH DATE-----: [REDACTED]
HEIGHT-----:5 FT 10 IN	RELIGION-----:OTHER - NOT LISTED
WEIGHT-----:155	U.S.CITIZEN-----:CITIZEN - NATIVE BORN
EYE COLOR-----:HAZEL	MARITAL STATUS-----:SINGLE
HAIR COLOR-----:BROWN	MEDICAL STATUS-----:NONE ON FILE
SKIN TONE-----:LIGHT	SOCIAL SECURITY #---: [REDACTED]
BODY BUILD-----:SMALL	AIMS GRP ASSIGNMENT:NOT ON F
MARKS/SCARS---:SEE REPORT 5	

***** DATA CURRENT AS OF: 05/08/24 *****

CURR STATUS---:RELEASE	TOTAL SENTENCE-----:888 YRS 0 MOS 0 DYS
CURR INST.----:UNK	CURR SENT SERVING---:888 YRS 0 MOS 0 DYS
CURR CUST LVL-:DR3	CURR SENT START-----:09/19/98
CURR ASSIGN.--:NOT ON FILE	EWC JOB LEVEL-----:NO CURRENT JOB
ESCAPE/ATTEMPT:SEE ESCAPE HISTORY	SCDC ADMIT DTE-----:09/19/98
HLD/WNT-DETAIN:YES, SEE REPORT 2	PROJ EWC-MAX-OUT---:88/88/8888
VICTIM/WITNESS:*** V/W ***	
PRIOR CONV OVER 90 DYS---: 0	PROJ EWC PAR-ELIG--:00/00/0000
PRIOR CONV 90 DYS OR LESS: 0	LABOR CREW/WORK PGM:99/99/9999

***** COMMITMENT INFORMATION *****

SEQ#	INCARC	SENT VIOL CONS SUSP COMM				
STATUS CURRENT OFFENSE	SENTENCE CHAR CNTS	TYPE IND	IND	YRS	CNTY	
	YRS MO DYS					
D00001 MURDER	888 0 0 F 1	DEATH	V	N		LEXINGTO
RM NO PROBATION						

CERTIFIED TRUE COPY

AGH
Records Officer, S. C. Dept. of Corr.

Date 5/8/2024



SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REPORT 1 CONTINUED OFFENDER SUMMARY

INMATE NO:5061

NAME:KELLY,WILLIAM ARTHUR

***** NO CONSECUTIVE STRUCTURE *****

** COMMITMENT TEXT **

HAD JURY TRIAL. FOUND GUILTY IN LEX. CO.,SC GEN. SESSIONS COURT AND SENTENCE
D TO DEATH BY JUDGE CLARY ON 09/19/98. TRANSFERRED TO SCDC IN SAFE- KEEPER
(DEATH ROW) STATUS AS OF 09/19/98. RUDY, KCI-R&E CTR., 09/21/98. **RE
MANDED OFFENSE #1 PER THE SUPREME COURT OPINION NO 009280 ARGUED 11/26/01 -
01/09/02. THIS ORDER REMANDED THE MURDER CHARGE BACK TO COURT TO DETERMINE IF
HE SHOULD RECEIVED THE DEATH PENALTY OR LIFE WITHOUT PAROLE. THIS ORDER WAS
REVIEWED BY B. VINCENT GENERAL COUNSEL. HIS NEW SCDC NUMBER IS 250459.....
..... 2/13/02..... EROWE

REPORT 2

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFENDER SUMMARY

INMATE NO: 5061

NAME: KELLY, WILLIAM ARTHUR

PERSON TO NOTIFY IN EMERGENCY:

NAME: JULIA L. KELLY
STREET: [REDACTED]
CITY: BATESBURG.
STATE: SOUTH CAROLINAPHONE: [REDACTED]
PHONE: [REDACTED]
ZIP CODE: 29006

RELATIONSHIP OF ABOVE: MOTHER

ADDRESS AT TIME OF ARREST:

STREET: [REDACTED]
CITY: BATESBURG
STATE: SOUTH CAROLINA

PERSON LIVING WITH AT ARREST: MICHAEL T. KELLY, SR.

RELATIONSHIP OF ABOVE: FATHER

ALIAS NAMES:

BILLY KELLY
WILLIAM ARTHUR KELLY

ACCOMPLICE NAMES: NONE ON FILE.

CAUTION	AGENCY	COUNTY	STATE	OFFENSE
WANTED	SUPREME COURT	LEXINGTON	SOUTH CAROLINA	0999

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFENDER SUMMARY

REPORT 3

INMATE NO: 5061

NAME: KELLY, WILLIAM ARTHUR

FAMILY INFORMATION

NAME: MICHAEL T. KELLY, JR.
STREET ADDR: [REDACTED]
CITY: FORT MONROE
STATE: VIRGINIA

RELATIONSHIP: BROTHER
AGE: 47

NAME: MAUDE ELIZABETH LACOY
STREET ADDR: [REDACTED]
CITY: LOWELL
STATE: MASSACHUSETTS

RELATIONSHIP: SISTER
AGE: 54

NAME: MICHAEL CUMBEE
STREET ADDR: [REDACTED]
CITY: BATESBURG
STATE: SOUTH CAROLINA

RELATIONSHIP: SISTER
AGE: 56

NAME: JULIA L. KELLY
STREET ADDR: [REDACTED]
CITY: BATESBURG.
STATE: SOUTH CAROLINA

RELATIONSHIP: MOTHER
AGE: 77

NAME: MICHAEL T. KELLY, SR.
STREET ADDR: [REDACTED]
CITY: BATESBURG.
STATE: SOUTH CAROLINA

RELATIONSHIP: FATHER
AGE: 78

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFENDER SUMMARY

REPORT 4

INMATE NO: 5061

NAME: KELLY, WILLIAM ARTHUR

EDUCATION HISTORY:

HIGHEST GRADE COMPLETED IN SCHOOL.....: 8
REASON DID NOT FINISH HIGH SCHOOL.....: EXPELLED

WERE YOU EVER IN SPECIAL ED/RESOURCE CLASSES.....: N

HIGHEST DEGREE RECEIVED.....: NONE

VOCATIONAL TRAINING: N AREA: RECEIVED CERTIFICATE?:

EMPLOYMENT HISTORY:

EMPLOYER: MACDONALDS

CITY: AIKEN

STATE: SOUTH CAROLINA

POSITION HELD: COOK/CHEF

WHAT KIND OF WORK DO YOU USUALLY DO?:

MAJOR OCCUPATION.: COOK/CHEF

SECOND OCCUPATION.: MASON/BRICK LAYER-CERT.

WERE YOU EVER EMPLOYED BY LAW ENFORCEMENT?...:

WHERE AND WHAT POSITION...:

JUVENILE HISTORY:

WERE YOU EVER ARRESTED BEFORE YOU TURNED 17 YRS OLD?: N

NUMBER OF JUVENILE ARRESTS?: 0

AGE AT FIRST ARREST?: 17

DID YOU EVER SERVE TIME AS A JUVENILE?: N NUMBER OF TIMES?: 0

WHAT FOR, WHEN, HOW LONG?

WERE YOU EVER ON PROBATION AS A JUVENILE?: N NUMBER OF TIMES?: 0

WHAT FOR, WHEN, HOW LONG?

DID YOU EVER RUN AWAY FROM HOME AS A JUVENILE?: Y

DID YOU EVER ESCAPE FROM A JUVENILE DETENTION CENTER/FACILITY?: N

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFENDER SUMMARY

REPORT 5

INMATE NO: 5061

NAME: KELLY, WILLIAM ARTHUR

MARKS AND SCARS

LEFT TIP END OF POINTER FINGER MISSING AT FIRST JOINT
TATTOO OF SATURN AND A CROSS ON LEFT INSIDE ANKLE
TATTOO RT ARM OF CRESENT MOON FOUR POINT STAR AND YENG/YANG {
TATTOO OF LEFT UPPER BACK OF TRIBAL ART

STG:

ARE YOU A MEMBER OF A GANG?: N

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFENDER SUMMARY

REPORT 6

INMATE NO: 5061

NAME: KELLY, WILLIAM ARTHUR

ALCOHOL AND DRUGS

WERE YOU UNDER THE INFLUENCE OF ALCOHOL OR DRUGS AT THE TIME OF THE CRIME?: N
 ALCOHOL DRUGS BOTH

ARE ALCOHOL/DRUGS RELATED TO CRIME? (SELECT UP TO 3 CHOICES):

ALCOHOL USE	MONEY TO BUY/USE DRUGS
DRUG USE	POSSESSION AT CRIME
DUI	X NOT APPLICABLE
PROFIT/FINANCIAL GAIN	

DO YOU CURRENTLY USE ANY TOBACCO PRODUCT?
 (CIGARETTES, CIGARS, CHEWING TOBACCO, DIP, SNUFF, ETC.)

INMATE STATEMENT

SUBJECT WAS ARRESTED ON JANUARY 8, 1996 BY LEXINGTON COUNTY OFF. FOR MURDER, KIDNAPPING, ARMED ROBBERY, POSS OR DISPLAY OF A KNIFE DURING THE COMMISSION OF A VIOLENT CRIME. SUBJECT PLED NOT GUILTY AND REMAINED IN JAIL. THERE WERE NO ACCOMPLICES AND HE WAS NOT DRINKING OR USING DRUGS.

SUBJECT STATES THAT THIS CRIME OCCURED ON JANUARY 5, 1996 IN BATESBURG SC. AT THE KFC ON WEST AVE. SUBJECT STATES THAT HE WENT TO KFC TO ROB THEM, HE HID IN THE BACK SEAT OF SHIRLEY SHEALY, WHO WAS THE MANAGER'S CAR. HE STATES THAT HE PULLED A KNIFE ON HER AND MADE HER GO BACK TO KFC. HE TOOK HER INTO THE MANAGER'S OFFICE WHERE SHE OPENED UP THE FLOOR SAFE AND GAVE HIM THE MONEY WHICH WAS APPROX. \$1300. HE STATES THAT SHIRLEY AGREED TO NOT SAY ANYTHING ABOUT WHO HAD DONE THIS CRIME. HE STATES THAT HE WAS FRIENDS WITH SHIRLEY, SHE WAS 25 YEARS OLD. WHEN HE GOT READY TO LEAVE OUT OF THE STORE, HE HEARD HER ON THE TELEPHONE TRYING TO CALL SOMEONE. HE DOES NOT KNOW WHAT WAS SAID. HE STATES THAT HE WENT BACK INTO HER OFFICE BECAUSE HE HEARD HER TALKING TO SOMEONE. SUBJECT STATES THAT HE TIED HER HANDS BEHIND HER BACK WITH DUCK TAPE AND SHE HAD NOT MOVED FROM WHERE HE HAD LEFT HER. HE STATES THAT SHE WAS PROBABLY TALKING TO HERSELF. HE STATES HE HAD TO KILL HER IN ORDER FOR HER NOT TO SAY ANYTHING ABOUT THIS CRIME SO THAT HE WOULD NOT GET INTO TROUBLE. AT THIS TIME, HE SLIT HER THROAT AND SHE JUMPED UP AND SCARED THE **** OUT OF HIM. HE THEN STABBED HER 31 TIMES. SUBJECT STATES THAT SHE DID NOT KNOW THAT HE HAD COME BACK INTO THE OFFICE BECAUSE HE CAME UP BEHIND HER AND CUT HER THROAT. HE STABBED HER 21 TIMES IN THE BACK, 5 ON THE CHEST, TWO ON THE NECK, ONE ON THE SCALP AND ONE IN THE RIGHT BUTTOCKS. HE STATES THAT HE HAD THE MONEY, BUT DURING THE STABBING IT HAD FALLEN OUT OF HIS JACKET ALL OVER THE FLOOR. HE STATES THAT HE HAD APPROX. \$250 STILL IN HIS COAT. AFTER THIS HAPPENED, HE STATES THAT HE JUST STOOD THEIR BECAUSE HE JUST FREEKED OUT. HE HAD BLOOD ON HIS PANTS AND SHOES. WHILE HE WAS STANDING THEIR, THE POLICE DID A ROUTINE CHECK AND SAW SHIRLEY'S CAR. THE POLICE SHINED THE LIGHT INTO THE STORE. HE WENT OUT THRU THE DRIVE THRU WINDOW. HE STATES THAT HE WENT AND GOT IN HIS CAR WHICH WAS APPROX. 100 FT AWAY. THE POLICE DID NOT SEE HIM GET INTO HIS CAR. HE STATES HE THOUGHT THE POLICE SAW HIM AND HE KNEW HE WOULD KNOW WHO HE WAS. HE STATES THAT HE LEFT AND WENT TO MASS. TO HIS SISTER'S HOME. HE STATES THAT THE POLICE DID NOT KNOW HE DID THE CRIME, BUT SINCE HE HAD WORKED AT THE STORE, HAD BEEN AT THE STORE EARLIER IN THE DAY AND HE HAD

DISAPPEARED HE WAS A PRIME SUSPECT. SUBJECT STATES THAT HIS MOTHER WAS WORRIED ABOUT HIM AND WHEN SHE FOUND OUT WHERE HE WAS SHE TOLD THE POLICE. HIS MOTHER THOUGHT MAYBE THE KILLER HAD ALSO TAKEN HER SON. WHEN THE POLICE QUESTIONED HIM IN MASS. HE CONFESSED TO THE CRIME. HE WAS BROUGHT BACK TO S.C. SUBJECT STATES HE DOES NOT KNOW WHY HE DID THIS. HE DID NOT NEED THE MONEY. SUBJECT STATES THAT HE WAS NOT VIOLENT AS A CHILD AND HAS NEVER BEEN A VIOLENT PERSON. HE HAS NO REASON. SUBJECT STATED THAT SHIRLEY WAS SIX MONTHS PREGNANT AND HAD A THREE YEAR OLD SON. HE STATES HE HAD A LOT OF ANGER BUILT UP INSIDE OF HIM BECAUSE OF HIS FATHER. HE STATES HIS FATHER WAS ABUSIVE WHEN HE WAS YOUNGER AND HAD RAPED HIS SISTER FROM THE TIME SHE WAS 13 YRS OLD UNTIL SHE TURNED 18. HE STATES HE JUST WANTED TO MAKE IT ON HIS OWN. HE STATES HE HAD IN THE PAST USED ALCOHOL AND TRIED DRUGS, BUT HE HAD QUIT SO THAT HE COULD GET HIS LIFE BACK IN ORDER AND GO BACK TO SCHOOL.

REPORT 7

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFENDER SUMMARY

INMATE NO: 5061

NAME: KELLY, WILLIAM ARTHUR

MENTAL HEALTH

1. WERE YOU EVER HOSPITALIZED FOR MENTAL HEALTH TREATMENT OR EVALUATION IN THE PAST 5 YEARS? N
2. DURING THE PAST 5 YEARS, WERE YOU IN ANY OUT PATIENT TREATMENT FOR YOUR NERVES? N
3. HAVE YOU EVER TRIED TO HURT YOURSELF? N
EXPLAIN:
4. DO YOU HAVE ANY SPECIAL ABILITIES/TALENTS THAT OTHERS DON'T HAVE? Y
EXPLAIN: COMEDIAN
5. DO YOU HEAR VOICES OR SOUNDS THAT OTHERS DON'T HEAR? N
6. SEE THINGS THAT ARE FRIGHTENING/UNUSUAL THAT OTHERS DON'T SEE? N
7. HAVE YOU EVER EXPERIENCED ANY FLASHBACKS? N
EXPLAIN:
8. WERE YOU EVER PHYSICALLY OR SEXUALLY ABUSED? Y
9. DOES PRESENT CHARGE INVOLVE SEXUAL MISCONDUCT? N
10. HAVE YOU EVER PARTICIPATED IN THE SEXUAL ASSAULT OF ANOTHER INMATE IN A FEDERAL, STATE, JUVENILE, COUNTY OR LOCAL FACILITY?
EXPLAIN:
11. HAVE YOU EVER BEEN THE VICTIM OF A SEXUAL ASSAULT BY AN EMPLOYEE OR INMATE IN A FEDERAL, STATE, JUVENILE, COUNTY OR LOCAL FACILITY OR WHILE ON ANY FORM OF COMMUNITY SUPERVISION?
EXPLAIN:

TEST DATA

REVISED BETA II: 0 DATE TESTED: 00/00/00
WRAT READING.....: 00.0 SASSI.: NOT CHEMICALLY DEPENDENT
BECK..:

```
MEETS YOA BOOT CAMP CRITERIA?: Y      IF NO, REASON...: CODE NOT IN TAB
MEETS SHOCK REQUIREMENTS....?: Y      IF NO, REASON...: CODE NOT IN TAB
```

REFER TO R&E CLINICIAN: Y



State of SC
VS.
William A. Kelly

September 14-19, 1998
Trial Transcript-
Sections 1 & 2
(COPY)

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF LEXINGTON) IN THE COURT OF GENERAL SESSIONS
 3) 96-GS-32-3226
 4)
 5 THE STATE,)
 6 PLAINTIFF,)
 7 -VS-) TRANSCRIPT OF RECORD
 8 WILLIAM ARTHUR KELLY,)
 9 DEFENDANT.) SEPTEMBER 14-19, 1998
 LEXINGTON, SOUTH CAROLINA

10
11 B E F O R E:

12 THE HONORABLE GARY E. CLARY, JUDGE; AND A JURY.
13

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

15 DONALD V. MYERS, ESQUIRE,
16 SOLICITOR FOR THE ELEVENTH JUDICIAL CIRCUIT,

17 FRANCIS A. HUMPHRIES, JR., ESQUIRE,
18 DEPUTY SOLICITOR FOR THE ELEVENTH JUDICIAL CIRCUIT,

19 GERALD T. CHASE, ESQUIRE,
20 ASSISTANT SOLICITOR FOR THE ELEVENTH JUDICIAL CIRCUIT,
21 ATTORNEYS FOR THE STATE,

22 ELIZABETH C. FULLWOOD, ESQUIRE,
23 PUBLIC DEFENDER FOR LEXINGTON COUNTY
24

25 VOLUME I (PAGES 1 - 550)

ROBBIE KOON DeFREESE, CIRCUIT COURT REPORTER
142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075



State of SC

VS.

William A. Kelly

September 14-19, 1998
Trial Transcript-
Sections 3 & 4
(COPY)

1 POINT. DID YOU HEAR STEVE DERRICK -- AGENT DERRICK TALK
2 ABOUT THAT? AT THE TEAR POINT. THAT MAKES SENSE, DOESN'T
3 IT? IF YOU ARE TEARING THIS TAPE OFF, IF EVER IT'S GOING
4 TO RIP, THAT'S GOING TO BE THE TIME. LEFT IT BEHIND.
5 DIDN'T LEAVE A FINGERPRINT. LUCKY FOR US, HE LEFT WHAT WAS
6 COVERING UP HIS FINGERPRINTS.

7 LADIES AND GENTLEMEN, WHAT ELSE DID HE BRING TO
8 THIS RANDOM MEETING WITH SHIRLEY SHEALY THAT THE DEFENSE
9 WOULD LIKE FOR YOU TO IGNORE. THERE'S NO PLAN HERE. THE
10 DUCT TAPE. THERE'S NO DUCT TAPE IN THAT STORE. WELL, I
11 DON'T SEE HOW THIS IS SOMETHING, YOU KNOW, EVEN IF YOU
12 BELIEVE THAT HE CARRIED THIS AROUND IN HIS POCKET FOR
13 PROTECTION AND FOR SOME REASON HE'S GOT SOME FETISH FOR
14 KEEPING GLOVES IN HIS POCKET AND WHERE ARE YOU KEEPING THIS
15 IF YOU ARE GOING TO THE ZOO IN COLUMBIA, SOUTH CAROLINA.
16 WHAT SENSE DOES THAT MAKE?

17 THE DEFENSE WANTS YOU TO IGNORE THAT. THEY WANT
18 YOU TO BELIEVE IT WAS A RANDOM MEETING. DID HE HAVE ACCESS
19 TO THOSE GLOVES? ABSOLUTELY. WHERE? MCDONALD'S. THE
20 PLACE WHERE HE WORKED.

21 NOW, THEY ALSO WANT YOU TO IGNORE THE CONDITION
22 OF THAT VEHICLE. SHIRLEY SHEALY'S CAR IS FOUND. THAT GAS
23 CAN TIPPED OVER IN THE BACK. SECURE ON THE FLOORBOARD OF
24 THAT IS A TIPPED OVER GAS CAN. NO ONE ELSE WAS IN THE BACK
25 OF THE CAR THAT NIGHT. SHIRLEY SHEALY CERTAINLY WASN'T.

ROBBIE KOON DeFREese, CIRCUIT COURT REPORTER
142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

1 (WHEREUPON, THE VERDICT FORM IS
2 HANDED TO THE BAILIFF AND THEN TO THE DEPUTY CLERK AT THIS
3 TIME.)

4 THE COURT: ALL RIGHT, MADAM CLERK, YOU MAY
5 PUBLISH THE VERDICT.

6 THE DEPUTY CLERK: INDICTMENT NUMBER
7 96-GS-32-3226, THE STATE OF SOUTH CAROLINA VERSUS
8 WILLIAM ARTHUR KELLY. WE, THE JURY, BY UNANIMOUS CONSENT
9 FIND THE FOLLOWING:

10 AS TO COUNT ONE OF THE INDICTMENT, MURDER: WE
11 FIND THE DEFENDANT GUILTY OF MURDER.

12 AS TO COUNT TWO OF THE INDICTMENT, KIDNAPPING:
13 WE FIND THE DEFENDANT GUILTY.

14 AS TO COUNT THREE OF THE INDICTMENT, ARMED
15 ROBBERY: WE FIND THE DEFENDANT GUILTY.

16 AS TO COUNT FOUR OF THE INDICTMENT, POSSESSION OR
17 DISPLAY OF A KNIFE DURING THE COMMISSION OF A VIOLENT
18 CRIME: WE FIND THE DEFENDANT GUILTY.

19 SIGNED COLIN BENNETT, FOREPERSON.

20 MR. FOREMAN AND LADIES AND GENTLEMEN, IF THIS IS
21 YOUR VERDICT SAY SO EACH OF YOU BY RAISING YOUR RIGHT HAND?

22 (WHEREUPON, ALL JURORS RAISED
23 THEIR RIGHT HAND AT THIS TIME.)

24 THE DEPUTY CLERK: YOU MAY PUT THEM DOWN.

25 THE COURT: LET THE RECORD REFLECT THAT EACH AND

ROBBIE KOON DeFREESE, CIRCUIT COURT REPORTER
142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

1 THE COURT: THANK YOU.

2 YOU MAY BE SEATED.

3 LET ME ONCE AGAIN REMIND EVERYONE TO -- IF YOU DO
4 NOT FEEL THAT YOU CANNOT CONTROL YOUR EMOTIONS REGARDLESS
5 OF THE VERDICT, PLEASE STEP OUTSIDE BECAUSE I WILL NOT
6 TOLERATE ANY OUTBURST.

7 ALL RIGHT. BRING THE JURY BACK.

8 (WHEREUPON, THE JURY RETURNED TO
9 THE COURTROOM AT 7:20 P.M.)

10 THE COURT: MR. FOREMAN, IT'S MY UNDERSTANDING
11 THAT YOU HAVE REACHED A VERDICT TO WHICH YOU ALL TWELVE
12 AGREE, IS THAT CORRECT?

13 THE FOREMAN: THAT'S CORRECT.

14 THE COURT: AND YOU HAVE FILLED OUT THE FORM AS I
15 INSTRUCTED YOU?

16 THE FOREMAN: YES, SIR.

17 THE COURT: ALL RIGHT.

18 PLEASE HAND THEM TO THE BAILIFF.

19 (WHEREUPON, THE VERDICT FORMS ARE
20 HANDED TO THE CLERK AT THIS TIME.)

21 THE COURT: ALL RIGHT, MR. CLERK. YOU MAY
22 PUBLISH THE VERDICT.

23 COUNTY OF LEXINGTON, STATE OF SOUTH CAROLINA
24 VERSUS WILLIAM ARTHUR KELLY.

25 WE, THE JURY, OF THE ABOVE-ENTITLED CASE, FIND

1 BEYOND A REASONABLE DOUBT THE FOLLOWING STATUTORY
2 AGGRAVATING CIRCUMSTANCES:

3 (1) KIDNAPPING;

4 (2) BURGLARY;

5 (3) ROBBERY WITH AN ARMED -- WITH ARMED AND
6 DEADLY WEAPON;

7 (4) LARCENY WITH THE USE OF A DEADLY WEAPON;

8 (5) COMMISSION OF PHYSICAL---

9 THE COURT: PHYSICAL TORTURE.

10 THE CLERK: PHYSICAL TORTURE.

11 FOREPERSON: COLIN BENNETT, EARL HARRISON,
12 MATTHEW GARRISON, CHRISTINE REYNOLDS; TAMMY SMITH, TAMMY
13 WOODS, MARVIN BRANHAM, TAMMY(SIC) GATES, EDWARD JEFFCOAT,
14 CLINE TAYLOR, JAMES KEISLER, MARY TERRY.

15 THE COUNTY OF LEXINGTON, STATE OF SOUTH
16 CAROLINA VERSUS WILLIAM ARTHUR KELLY.

17 WE, THE JURY, IN THE ABOVE-ENTITLED CASE, HAVING
18 FOUND BEYOND A REASONABLE DOUBT THE EXISTENCE OF THE
19 FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCES, TO WIT:

20 KIDNAPPING;

21 BURGLARY;

22 ROBBERY WITH ARMED AND DEADLY WEAPON;

23 LARCENY THE USE OF DEADLY WEAPON;

24 COMMISSION OF PHYSICAL TORTURE.

25 NOW RECOMMEND THE COURT THAT THE DEFENDANT,

ROBBIE KOON DeFREESE, CIRCUIT COURT REPORTER
142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

1 WILLIAM ARTHUR KELLY, BE SENTENCED TO DEATH.

2 THE COURT: PLEASE POLL THE JURY, MR. CLERK?

3 THE CLERK: MR. COLIN BENNETT, IS THIS YOUR
4 SENTENCE?

5 THE FOREMAN: IT IS.

6 THE CLERK: IS IT STILL YOUR SENTENCE.

7 THE FOREMAN: IT IS.

8 THE CLERK: MR. EARL HARRISON, IS THIS YOUR
9 SENTENCE?

10 THE JUROR: YES.

11 THE CLERK: IS IT STILL YOUR SENTENCE?

12 THE JUROR: YES, SIR.

13 THE CLERK: MR. MATTHEW GARRISON, IS THIS YOUR
14 SENTENCE?

15 THE JUROR: YES.

16 THE CLERK: IS IT STILL YOUR SENTENCE?

17 THE JUROR: YES.

18 THE CLERK: MS. CHRISTINE REYNOLDS, IS THIS YOUR
19 SENTENCE?

20 THE JUROR: YES, IT IS.

21 THE CLERK: IS IT STILL YOUR SENTENCE?

22 THE JUROR: YES, IT IS.

23 THE CLERK: MS. TAMMY SMITH, IS THIS YOUR
24 SENTENCE?

25 THE JUROR: YES, IT IS.

ROBBIE KOON DeFREESE, CIRCUIT COURT REPORTER
142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

1 THE CLERK: IS IT STILL YOUR SENTENCE?
2 THE JUROR: YES, IT IS.
3 THE CLERK: MS. TAMMY WOODS---
4 THE JUROR: YES.
5 THE CLERK: ---IS THIS YOUR SENTENCE?
6 THE JUROR: YES SIR.
7 THE CLERK: IS IT STILL YOUR SENTENCE?
8 THE JUROR: YES, SIR.
9 THE CLERK: MR. MARVIN BRANHAM, IS THIS YOUR
10 SENTENCE?
11 THE JUROR: YES SIR.
12 THE CLERK: IS IT STILL YOUR SENTENCE?
13 THE JUROR: YES, SIR.
14 THE CLERK: MS. TERRY GATES, IS THIS YOUR
15 SENTENCE?
16 THE JUROR: YES SIR.
17 THE CLERK: IS IT STILL YOUR SENTENCE?
18 THE JUROR: YES, SIR.
19 THE CLERK: MR. EDWARD JEFFCOAT, IS THIS YOUR
20 SENTENCE?
21 THE JUROR: YES, SIR.
22 THE CLERK: IS IT STILL YOUR SENTENCE?
23 THE JUROR: YES, SIR.
24 THE CLERK: MR. CLINE TAYLOR, IS THIS YOUR
25 SENTENCE?

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142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

1 THE JUROR: YES, SIR.

2 THE COURT: IS IT STILL YOUR SENTENCE?

3 THE JUROR: YES, SIR.

4 THE CLERK: MR. JAMES KEISLER---

5 THE JUROR: YES---

6 THE CLERK: ---IS THIS YOUR SENTENCE?

7 THE JUROR: YES, IT IS.

8 THE CLERK: IS IT STILL YOUR SENTENCE?

9 THE JUROR: YES, SIR, IT IS.

10 THE CLERK: MS. MARY TERRY, IS THIS YOUR
11 SENTENCE?

12 THE JUROR: YES, IT IS.

13 THE CLERK: IS IT STILL YOUR SENTENCE?

14 THE JUROR: YES, IT IS.

15 THE CLERK: YOUR HONOR, THE JURY HAS BEEN POLLED.

16 THE COURT: ANYTHING FURTHER FROM THE STATE
17 BEFORE I EXCUSE THE JURY?

18 THE SOLICITOR: NOTHING FURTHER FROM THE STATE.

19 THE COURT: FROM THE DEFENSE BEFORE I EXCUSE THE
20 JURY?

21 MS. FULLWOOD: NO, SIR.

22 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF
23 THE JURY, I WANT THANK YOU VERY MUCH FOR YOUR PARTICIPATION
24 IN THIS CASE. YOU WILL BE DISMISSED FROM THE JURY ROOM. I
25 WANT TO THANK YOU VERY MUCH FOR YOUR SERVICE HERE. YOU MAY

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1 THE COURT: YES, MA'AM.

2 MS. FULLWOOD: AND THAT WOULD BRIEFLY BE FOR A
3 NEW TRIAL ON GROUNDS OF ALL THE OBJECTIONS MADE AND THE
4 EXCEPTIONS TAKEN DURING THE COURSE OF THE SENTENCING
5 PROCEEDING.

6 THE COURT: YES, MA'AM.

7 MOTION IS DENIED.

8 ALL RIGHT. WOULD YOU BRING THE DEFENDANT AROUND
9 FOR SENTENCING, PLEASE?

10 I'LL BE GLAD TO HEAR FROM EITHER THE LAWYERS OR
11 MR. KELLY AT THIS TIME.

12 MR. KELLY, ANYTHING YOU WANT TO TELL ME?

13 THE DEFENDANT: NO, SIR.

14 THE COURT: ANYTHING FROM MR. KIRKLAND OR MS.
15 FULLWOOD AT THIS TIME?

16 MS. FULLWOOD: NO, YOUR HONOR.

17 MR. KIRKLAND: NOTHING, YOUR HONOR.

18 THE COURT: WELL, AS THE TRIAL JUDGE IN THE
19 ABOVE-ENTITLED ACTION, THAT OF THE STATE VERSUS
20 WILLIAM ARTHUR KELLY AND PRIOR TO THE IMPOSITION OF THE
21 DEATH SENTENCE UPON THE DEFENDANT, WILLIAM ARTHUR KELLY, I
22 FIND AS AN AFFIRMATIVE FACT THAT THE EVIDENCE IN THE CASE
23 WARRANTS THE IMPOSITION OF THE DEATH PENALTY AND IT'S
24 IMPOSITION IS NOT THE RESULT OF PASSION, PREJUDICE, OR ANY
25 OTHER ARBITRARY FACTOR; AND, THEREFORE, THE SENTENCE OF THE

1 COURT IS THAT THE DEFENDANT, WILLIAM ARTHUR KELLY, HAS BEEN
2 FOUND BY THE JURY TO BE GUILTY OF THE OFFENSE OF MURDER AND
3 THE JURY HAS RECOMMENDED THAT THE DEFENDANT SHOULD BE
4 SENTENCED TO THE DEATH.

5 IT IS THEREFORE THE JUDGMENT OF THE LAW AND THE
6 SENTENCE OF THE COURT THAT THE DEFENDANT, WILLIAM ARTHUR
7 KELLY, BE TAKEN TO THE LEXINGTON COUNTY DETENTION AND
8 THENCE TO THE STATE DEPARTMENT OF CORRECTIONS, HENCEFORTH
9 TO BE KEPT IN CLOSE AND SAFE CONFINEMENT UNTIL THE 19TH DAY
10 OF NOVEMBER, 1998, UPON WHICH DAY BETWEEN THE HOURS OF 6
11 O'CLOCK P.M. AND 6 O'CLOCK A.M., THE DEFENDANT, WILLIAM
12 ARTHUR KELLY, SHALL SUFFER DEATH BY ELECTROCUTION OR BY
13 LETHAL INJECTION IN THE MANNER PRESCRIBED BY LAW.

14 MAY GOD HAVE MERCY ON YOUR SOUL.

15 ALL RIGHT. IF THERE'S NOTHING ELSE TO COME
16 BEFORE THE COURT, COURT IS ADJOURNED FOR THIS WEEK.

17 JUST A MINUTE. I HAVE NEGLECTED TO SENTENCE HIM
18 ON THE OTHER INDICTMENTS SO I NEED TO DO THAT. EXCUSE ME.
19 SINCE WE HAVE NOT DISPERSED, WE ARE NOT ADJOURNED.

20 MAY I HAVE THOSE INDICTMENTS, PLEASE.

21 THE CLERK: I'M GETTING THEM RIGHT NOW. I HAD
22 FORGOTTEN THEM ALSO.

23 THE COURT: IF YOU WOULD PLEASE GET MS. FULLWOOD
24 AND THEM, TELL THEM I APOLOGIZE -- I'M SORRY, MS.
25 FULLWOOD, I DIDN'T SEE YOU THERE.

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142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

1 (WHEREUPON, THE DEFENDANT REENTERS
2 THE COURTROOM AS THIS TIME.)

3 THE COURT: AS TO COUNT TWO OF THE INDICTMENT,
4 THE SENTENCE OF THE COURT -- AND THAT IS FOR KIDNAPPING --
5 THAT THE DEFENDANT, WILLIAM ARTHUR KELLY, IS COMMITTED TO
6 THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF THIRTY
7 (30) YEARS.

8 AS TO COUNT THREE OF THE INDICTMENT, THAT BEING
9 ARMED ROBBERY, THE SENTENCE OF THE COURT, THE DEFENDANT,
10 WILLIAM ARTHUR KELLY, IS COMMITTED TO THE STATE DEPARTMENT
11 OF CORRECTIONS FOR A TERM OF THIRTY (30) YEARS.

12 AND THEN AS TO COUNT FOUR OF THE INDICTMENT,
13 POSSESSION OF A KNIFE DURING THE COMMISSION OF A VIOLENT
14 CRIME, THE SENTENCE OF THE COURT IS THAT THE DEFENDANT,
15 WILLIAM ARTHUR KELLY, IS COMMITTED TO THE STATE DEPARTMENT
16 OF CORRECTIONS FOR A TERM OF FIVE(5) YEARS.

17 ALL SENTENCES ARE CONSECUTIVE TO EACH OTHER.

18 THANK YOU VERY MUCH.

19 MS. FULLWOOD: IF IT PLEASE THE COURT, YOUR
20 HONOR.

21 THE COURT: YES, MA'AM.

22 MS. FULLWOOD: I WOULD RESPECTFULLY TAKE
23 EXCEPTION TO THE COURT'S SENTENCE OF KIDNAPPING.

24 JUDGE, I MAY BE WRONG, BUT I THOUGHT THE LAW WAS
25 THAT IF YOU SIMULTANEOUSLY RECEIVED THE DEATH PENALTY FOR

1 MURDER, NO SENTENCE FOR KIDNAPPING IS TO BE IMPOSED.

2 THE COURT: IS THAT CORRECT?

3 THE SOLICITOR: YES, SIR. WE AGREE WITH THAT.

4 THE COURT: ALL RIGHT.

5 THAT SENTENCE IS VACATED.

6 THANK YOU VERY MUCH FOR BRINGING THAT TO MY
7 ATTENTION. MY ERROR.

8 MS. FULLWOOD: THANK YOU, YOUR HONOR.

9 THE COURT: THE SENTENCE FOR KIDNAPPING IS
10 VACATED.

11 MS. FULLWOOD: THANK YOU, YOUR HONOR.

12 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

13 ALL RIGHT. THANK YOU VERY MUCH. COURT IS
14 ADJOURNED.

15 (COURT RECESSED FOR THE DAY AT
16 7:45 P.M.)

17 ** ** ** ** - - - - - ** ** ** ** - - - - - ** ** **
18
19
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25



State of SC

VS.

William A. Kelly

Resentencing Hearing
Trial Transcript- 2006

1 STATE OF SOUTH CAROLINA

2 IN THE COURT OF GENERAL SESSIONS

3 COUNTY OF LEXINGTON

4
5 THE STATE,

6 V.

7 WILLIAM KELLY,

8 DEFENDANT.

9
10 B E F O R E : THE HONORABLE WILLIAM P. KEESLEY, JUDGE.

11
12 A P P E A R A N C E S :

13 FOR THE STATE: SHAWN GRAHAM, ASSISTANT SOLICITOR

14 FOR THE DEFENDANT: ELIZABETH FULLWOOD, PUBLIC DEFENDER AND WESLEY
15 KIRKLAND, ESQUIRE

16
17 COURT REPORTER: SMOKEY PERRY

18
19 JULY 14, 2006

20
21 96-GS-32-3226

1 MR. GRAHAM: I THINK GO AHEAD AND PUT IT ON THERE TO BE SAFE, YOUR
2 HONOR. I THINK THE LAW TAKES CARE OF IT, BUT TO RELIEVE ANY QUESTION, I WOULD
3 ASK THAT YOU WRITE IT ON THERE.

4 THE COURT: WHEN IT WAS SENT BACK, IT WAS JUST PURELY BASED ON HIS AGE?

5 MR. GRAHAM: NO, YOUR HONOR. IT WAS -- IN 2002 IT WAS SENT BACK FOR THE
6 RE-SENTENCING PROCEDURE BECAUSE THEY FORGOT TO DO A CHARGE REGARDING
7 THAT LIFE MEANS LIFE, THAT THERE WAS NO POSSIBILITY OF PAROLE.

8 MS. FULLWOOD: THE SIMMONS ERROR, YOUR HONOR.

9 THE COURT: ALL RIGHT. BUT THEY DIDN'T REVERSE THE AGGRAVATING
10 CIRCUMSTANCES THAT THE JURY HAD FOUND.

11 MR. GRAHAM: CORRECT. HE'S SERVING A 35-YEAR SENTENCE, YOUR HONOR.
12 THE ONLY SENTENCES THAT WERE SENT BACK, MY UNDERSTANDING, IS THE MURDER
13 AND THE KIDNAPPING.

14 THE COURT: ALL RIGHT. THEN IF THERE IS NOTHING FURTHER, THE SENTENCE
15 ON MURDER IS THAT YOU BE COMMITTED TO THE SOUTH CAROLINA DEPARTMENT OF
16 CORRECTIONS FOR A PERIOD OF LIFE IMPRISONMENT WITHOUT PAROLE PLUS COST AND
17 ASSESSMENTS. KIDNAPPING THE SENTENCE IS CONSUMED BY YOUR SENTENCE ON
18 MURDER ON COUNT ONE OF THE INDICTMENT PURSUANT TO THE PROVISIONS OF
19 SECTION 16-3-910 OF THE CODE OF LAWS OF SOUTH CAROLINA. THANK YOU, FOLKS.

20 MS. FULLWOOD: THANK YOU, YOUR HONOR.

21 *****ENDOFTRANSCRIPT*****
22
23
24
25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

D600142 - 145
 IN THE COURT OF GENERAL SESSIONS

INDICTMENT NO.: 96-GS-32-3226

The State of South Carolina,)
)
 vs.)
)
 William Kelly,)
)
 Defendant.)
 _____)

MOTION FOR RESENTENCING

BETH A. CARRIGG
 CLERK OF COURT
 LEXINGTON, SC

2016 JUL 11 PM 4:25

F-11-CL

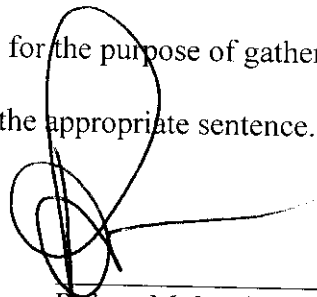
The defendant, William Kelly, hereby moves for a new sentencing proceeding pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014), *cert. denied*, ___ U.S. ___, 135 S.Ct. 2379 (2015).

In *Aiken v. Byars*, the Supreme Court of South Carolina determined that *Miller v. Alabama*, 567 U.S. ___, 132 S.Ct. 2455 (2012) (holding that imposing a life without parole sentence on a juvenile offender without considering the hallmark characteristics of juveniles in general and the particular mitigating circumstances in the defendant's individual case in particular violated the Eighth Amendment), applied retroactively in South Carolina. *Id.*, 410 S.C. at 540, 765 S.E.2d at 575. The Court next opined that applying the constitutional principles articulated in *Miller* to South Carolina's pre-*Miller* sentencing practices, all life without parole sentences imposed on juveniles in this state prior to *Miller* and *Aiken* were "entitled to resentencing to allow the inmates to present evidence specific to their attributes of youth and allow the judge to consider such evidence in the light of its constitutional weight." *Id.* at 544, 765 S.E.2d at 577. Finally, on July 23, 2015, following the United State's Supreme Court's denial of the Attorney General's petition for writ of certiorari, the South Carolina Supreme Court entered an order permitting any individual "affected by our holding in *Aiken* [to] file a motion for

resentencing within one year of the date of this order in the court of general sessions where he or she was originally sentenced.” *Aiken v. Byars*, Appellate Case No. 2012-213286 (July 23, 2015).

The defendant in this case is eligible for the benefit of *Aiken v. Byars* because he received a sentence of life without parole for offenses committed when he was under eighteen years of age. In addition, at the same proceeding, which concerned one continuous course of conduct, he additionally received additional consecutive 30 year and 5 year sentences. These sentences are the functional equivalent of life sentences. This motion is timely filed. Therefore the defendant is entitled to a new sentencing proceeding conducted in conformity with the state and federal constitutional principles set forth in *Miller* and *Aiken v. Byars*.

For the foregoing reasons, the defendant requests that the Court conduct a new sentencing hearing conducted in conformity with *Aiken v. Byars*. He also requests that the court authorize expenditure of funds administered by the South Carolina Commission Defense to allow him and his counsel to conduct a necessary investigation for the purpose of gathering and marshaling all evidence relevant to a reliable determination of the appropriate sentence.



Robert M. Madsen
407 West Main St.
Lexington SC 29072
(803) 785-8873

Attorney for Defendant

July 8, 2016.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Lexington
 William Arthur Kelly
 AKA:
 Race: W Sex: M Age: 28
 DOB: [REDACTED] SS#: [REDACTED]
 Address:
 City, State, Zip
 DL# [REDACTED] SID# SC01271298

INDICTMENT/CASE#:

1996 -GS- 32 - 3226 d 1
 A/W#: D600142
 Date of Offense: 1-5-96
 S.C. Code §: 16-3-10
 CDR Code #: 011116

☐ CASE RESTORED
 SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder
 in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 011116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
 Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of life ~~days/months/years~~ or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$, provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable; ~~the balance is suspended with probation for~~
~~months/years and subject to South Carolina Department of Probation, Pardon and Pardon Services standard conditions of probation,~~
~~which are incorporated by reference.~~

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
 Total: \$ plus 20% fee: \$

Payment Terms:
☐ set by SCDPPPS

Recipient:		\$
*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Beth A. Camacho
 Clerk of Court/Deputy Clerk

Court Reporter: *S. Perry*

PTUP

days/hours Public Service Employment

Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning
 Substance Abuse Counseling
 Random Drug/Alcohol Testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning
 \$ paid to Public Defender Fund
 Other:

☐ Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

William P. Standing
 1 015 10
 July 14, 2006

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

State of South Carolina,

Plaintiff,

vs.

William Arthur Kelly,

Defendant.

IN THE COURT OF GENERAL SESSIONS
THE ELEVENTH JUDICIAL CIRCUIT

1996-GS-32-3226

SENTENCING MEMORANDUM

I. Introduction

In *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014), the South Carolina Supreme Court vacated all life without parole sentences imposed on juvenile offenders concluding that such sentences violated the Eighth Amendment's ban against cruel and unusual punishment. The Court further held that all such defendants were entitled to new sentencing hearings that must be "individualized" and at which "courts [must] fully explore the impact of the defendant's juvenility on the sentence rendered." *Id.* at 545, 765 S.E.2d at 578. The *Byars* Court set forth five key factors that must be taken into consideration when juvenile life without parole is a possible sentence:

- (1) the chronological age of the offender and the hallmark features of youth, including "immaturity, impetuosity, and failure to appreciate the risks and consequence";
- (2) the "family and home environment" that surrounded the offender;
- (3) the circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressures may have affected him;
- (4) the "incompetencies associated with youth—for example, [the offender's] inability to deal with police officers or prosecutors (including on a plea agreement) or [the offender's] incapacity to assist his own attorneys"; and

(5) the “possibility of rehabilitation.”

410 S.C. at 544, 765 S.E.2d at 577 (citing *Miller v. Alabama*, 567 U.S. 460, 477-478 (2012)).

William (“Will”) Kelly had his sentence vacated and is now before this court for re-sentencing. This sentencing memorandum addresses each of the *Aiken v. Byars* factors in turn with regard to how they apply to Will. Considered collectively, the sentencing factors demonstrate that Will should be sentenced to no more than forty years imprisonment.

II. Chronological Age of the Offender and the Hallmark Features of Youth

Miller was based on the premise that juveniles are less morally culpable because they “have a lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking.” 567 U.S. at 471 (internal quotation marks omitted). Rather than being a function of incorrigibility, such traits are biological, due to juveniles’ underdeveloped neurological status.

Will’s status as a juvenile significantly diminishes his moral culpability. As he was seventeen at the time of his charges, Will fell within the category of “mid adolescence.” Thus, he was categorically subject to the “hallmark features” of youth. Will noted that at seventeen he did not have long term goals and did not “see himself in the future.” Multiple individuals who knew Will as a child and adolescent described him as less mature than his chronological age, particularly with regard to social and cognitive maturity. In addition, school personnel, from elementary to high school, strongly depicted a youth who was socially less mature than his peers.

III. Family and Home Environment

In his family and home environment, Will was subject to physical and emotional abuse from a very young age to seventeen. Such dynamics were reported by Will, his immediate family members, multiple relatives, and others who knew the family including Will’s best friend and neighbors. The abuse consisted of psychological abuse including constant degrading verbal abuse

and frequent beatings with objects such as sticks, pipes, belts, a shovel, fencing, and wire. Will's father would also pull Will out of bed at midnight, yell at him, and demand compliance with chores or perpetrate abusive acts. Finally, Will's father shot the family's puppies when there were too many litters, and made Will stand in an ant hill on at least one occasion.

The abuse extended to family members outside of Will. For example, Will's father threw Will's mother out of a moving car during an argument, knocked her over for not bringing food fast enough, and constantly screamed at and slapped her. Will's father also sexually abused Will's sister on numerous occasions.

IV. Circumstances of the Homicide Offense

Will was charged with murder, kidnapping, armed robbery, and possession of a weapon during commission of a violent crime. Shirley Shealy died on January 5, 1996, from exsanguination due to "incised wounds of neck and multiple stab wounds of back and chest." Will cooperated with police and never denied the crime. Pretrial interviews with Will and collateral sources conducted by law enforcement and the defense team described a sexual relationship between Will and Shirley Shealy.

While there was no peer pressure involved in the homicide offense, familial pressures contributed to the homicide. The violence involved in the offense appears to be an aberrant reaction, related to dynamics isolated to adolescence. Specifically, Will was trying to escape an abusive home environment and the situation escalated resulting in the homicide. As an independent adult, no longer subject to his father's control or abuse, such dynamics cannot be replicated. Will has never committed violence in his life prior to or after this act. Ultimately, the crime was the product of a unique set of circumstances committed by an abused child and, given his age, will never occur again.

V. Incompetencies Associated with Youth

Will experienced the incompetencies associated with youth as evidenced by (1) his interaction with his attorneys; (2) his comprehension and waiver of *Miranda*; and (3) the nature of his confession and statements. His attorneys noted that Will's age was a barrier, that he was poorly socialized, and that he appeared withdrawn. Further, Will thought he had to talk to the police and did not understand he could have an attorney with him. Finally, Will provided an incriminating statement to law enforcement, implicating himself in the offense. By his report, he was not truthful in this account, as he denied a sexual relationship with Shirley Shealy and did not reveal the conspiratorial element of the offense. For years, lying served as a protective mechanism to prevent abuse, which reinforced its use. In other words, Will had been socialized over many years to lie to authority figures to avoid a negative consequence. Thus, his lack of truthfulness was rooted in developmental factors, and can be classified as an incompetency of sorts, which negatively impacted his case.

VI. Possibility of Rehabilitation

Youth are considered more malleable and amenable to personal change and growth given that they are still within a period of evolving maturity. During his time incarcerated, none of his very few disciplinaries have involved assaultive or violent behavior. Will earned his GED on January 11, 2005 and has worked as a general worker, senior custodian, painter, material handler, and ward keeper assistant. In addition, Will has a deep, practicing faith and helps mediate between conflicting groups.

VII. Conclusion

Considering the five *Byars* factors, it is clear that Will is one of the "vast majority of juvenile offenders" who have the "capacity for change" rather than the very few "incurable

juvenile offenders” for whom life without parole is a constitutional sentence. *Graham v. Florida*, 560 U.S. 48, 74 (2010), *Montgomery*, 136 S.Ct. at 734. Will’s crime was not the product of an irredeemable individual, but rather was the product of his immaturity as a juvenile, compounded by a challenging home environment. Will has clearly demonstrated his capacity for rehabilitation and his ability to change into a productive member of society.

Therefore, this Court should sentence William Kelly to a term of forty years imprisonment allowing for a meaningful opportunity for release, rather than life imprisonment without the possibility of parole.

Respectfully,



Sarah Mauldin
Attorney for Defendant
202 E. Main St.
Lexington, SC 29072
(803) 785-8873

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

STATE OF SOUTH CAROLINA)
))
)) #1996-GS-32-3226
))

vs.)

WILLIAM KELLY,
DEFENDANT

**State's Response to Defendant's
Sentencing Memorandum**

Now comes the State, in response to Defendant's "Sentencing Memorandum" filed in the above-referenced case.

In *Aiken v. Byars*, 765 S.E. 2d 572 (S.C. 2014), the Court recognized that the mandatory imposition of life without parole sentences on juveniles is unconstitutional. *Miller v. Alabama*, 567 U.S. 460 (2012). However, the Court in *Byars* set forth the appropriate procedure of individualized sentencing hearings in which the consideration of youth factors is the proper format for sentencing such cases.

Most significantly, the Court in *Byars* states: "Without question, the judge may still determine the life without parole is the appropriate sentence in some of these cases in light of other aggravating circumstances. Our General Assembly has made the decision that juvenile offenders may be sentenced to life without parole, and we honor that decision."

As a result, in the present case, William Arthur Kelly has been afforded a full re-sentencing hearing with specific focus on the mitigating "hallmark features of youth," which have been fully explored.

The Defendant has been convicted of murdering Shirley Shealy, age 25, during the course of a Kidnapping and Armed Robbery. Shealy was 6 months pregnant at the time she was murdered. The State addressed the following factors on the record and through testimony during the aforementioned sentencing hearing:

1. Chronological age and hallmark features of youth

- 17 year and 7 months (5 months shy of age 18)
- Immaturity
 - Multiple Jobs
 - Driver's License and had his own car

BA

- Impetuosity
 - Evidence of premeditation and planning in advance of the crime

2. Family and home environment

- Crime is completely unrelated to Defendant's home life
- Victim murdered during a planned KFC robbery
- Victim was the focus of Defendant's malice
- Defendant's father has no connection to KFC or the victim
- Defendant never assaulted his father or anyone other than victim

There is no link between the Defendant's anger at his father and the planned, brutal murder of Shirley Shealy.

3. Circumstances of the homicide

- Defendant is the **sole offender** in the Murder
- Extremely aggravated crime of violence
- Shirley Shealy was the sole focus of his malice and rage
- Premeditation and Planning
- Planned Alibi (Club Zoo)
- Duct Tape (planned Kidnapping)
- Knife (planned Murder)
- Gas Can (planned destruction of evidence and crime scene)
- Gloves from McDonald's (no fingerprints)
- Scoped out KFC for several hours (planning)
- Only manager (victim) knew the combination to the safe
- Victim knew him and could identify him (planned Murder)
- Hid his car by parts store behind the KFC
- Hid in back of the victim's car with knife (planned Kidnapping, Robbery, & Murder)
- Escape plan (car and money)
- 31 stab wounds to back and torso
- Victim's throat cut
- Victim was 6 months pregnant with a son
- Victim's hands were tied behind her back with duct tape - She had **no defensive wounds**

4. Incompetencies associated with youth

- Waived Miranda
- Provided a voluntary statement
- Had road map and drove through blizzard to get to Massachusetts

- Defendant had two death penalty qualified attorneys
- Defendant had full defense and mitigation team
- Multiple psychologists consulted with defense team

5. Possibility of Rehabilitation

Disciplinary Record at SCDC

Assaultive Disciplinarys

- 2/3/03 Possession of weapon (two 10 inch shanks) - convicted (age 24)

Non-Assaultive Disciplinarys

- 12/11/06 Possession of contraband (wooden broom) - convicted (age 28)
- 2/20/07 Possession of contraband (cell phone homemade charger) - convicted (age 28)
- 1/9/08 Possession of contraband (Homemade file, three shift hooks and modified Allen wrench) – convicted (age 29)
- 2/28/08 Possession of contraband (book purchased with stolen credit card) – convicted (age 29)
- 11/16/08 Refusing or failing to obey correctional officer – convicted (age 30)
- 4/11/12 Possession or/attempt to possess contraband (Three cell phones and three chargers) – convicted on first charge (age 33)
- 4/11/12 Possession or/attempt to possess contraband (Three cell phones and three chargers) – convicted on second charge (age 33)
- 1/31/13 Use, Possession Narc Marijuana (Tested Positive) – convicted (age 34)
- 1/8/21 Possession or attempt to possess contraband (Possession of cell phone) – convicted (age 42)
- 4/20/22 Use/Possession of Narcotics (refused to take drug test) – convicted (age 43)

Education

Not excluded from programs based on duration of sentence. Persons serving a life sentence are eligible for educational programs.

PA

Vocational Training

Open to anyone.

Personal and Character Development

Open to anyone.

- Defendant has no earned educational credits beyond a GED.
- Defendant has no participation in character or personal development programs.

Respectfully Submitted:



Rick Hubbard
Solicitor
Eleventh Circuit Solicitor's Office
Lexington, SC

May 31, 2024

2024 JUL - 14 11:09

LISA M. CONER
CLERK OF COURT
TEXT 610-201-5151
ONS

The Defendant, William Kelly, was originally convicted of Murder, Kidnapping, Armed Robbery, and possession of a weapon during commission of a violent crime during a capital trial. A Lexington County jury sentenced Mr. Kelly to death on September 19, 1998. Thereafter the South Carolina Supreme Court affirmed the death penalty. The United States Supreme Court reversed and remanded the sentence of death in 2002, due to omission of a jury instruction. As a



result, the Murder and Kidnapping charges were remanded to the Circuit Court for re-sentencing in *Kelly v. South Carolina*, 534 U.S. 246 (2002). Kelly was subsequently resentenced to life imprisonment on the Murder charge on July 14, 2006 by Judge William P. Keesley.

In 2012, the United States Supreme Court declared a mandatory sentence of life without the possibility of parole for those under the age of eighteen (18) at the time of the crime violates the Eight Amendment's prohibition on cruel and unusual punishment. *Miller v. Alabama*, 567 U.S. 460 (2012). *Miller* set forth the framework by which a sentencing court must consider in determining whether a juvenile offender may be sentenced to life. Those factors include:

- (1) chronological age and hallmark features of youth including immaturity and impetuosity;
- (2) family and home environment which surrounded the offender;
- (3) circumstances of the homicide;
- (4) the incompetence associated with youth; and the possibility of rehabilitation;
- (5) the possibility of rehabilitation. *Id.* at 477-78.

In 2013, the Supreme Court of South Carolina held that not only does *Miller* apply retroactively, but that a life without parole sentence for juveniles without consideration of the hallmarks of youth constitutes cruel and unusual punishment. *Aiken v. Byars* 410 S.C. 534 (2014). Furthermore, the Court held that, "the petitioners and those similarly situated are accordingly entitled to resentencing to allow the judge to consider such evidence in light of this constitutional weight." *Id.* At 544.

The Court indicates that the purpose of the resentencing hearing is to utilize the frame work set forth in *Miller*. In both cases the Courts agree that "although a court may still sentence a juvenile to life without parole after an individualized hearing", the Court cautioned that given "children's diminished culpability and heightened capacity for change," the appropriate occasions for sentencing juveniles to the harshest penalty will be uncommon." *Id.* at 539.

Following the *Byars* decision in 2014, this case has once again been remanded for resentencing. This Court was assigned this matter by Chief Justice Pleicones on August 3, 2016.



This Court has carefully considered the framework for sentencing as set forth in *Byars*, and each factor was fully explored during the hearing.

The State offered witnesses addressing the circumstances of the crime, including Steven Derrick (SLED crime scene investigation) and William Oswald (former Chief of Batesburg Leesville Police Department). The State also called witnesses from the S.C. Department of Corrections regarding Mr. Kelly's incarceration and offered testimony and/or statements from the Victim's family members on the impact of her death.

The Court was also presented many mitigating factors regarding the factors of youth specifically focusing on the "hallmark features of youth". The Defendant presented a written report and testimony from Dr. Susan C. Knight, Ph.D., a licensed clinical psychologist and board-certified forensic psychologist. Dr. Knight individually addressed each of the factors of youth and detailed mitigating factors on behalf of Mr. Kelly. Defense counsel also offered testimony from the Defendant's brother, Michael Kelly, and a childhood friend, Jesse Johnson, regarding the Defendant's background, home life, and other mitigating circumstances.

I. Chronological Age and Hallmark Features of Youth

While the Court finds the Defendant's expert to be credible and offered great insight as to the childhood of the Defendant, the Court weighs this evidence against what the State presented. The Defendant's age was only 5 months shy of the age of 18 at the time of this horrific crime. Further, the Court notes the Defendant showed many characteristics of a mature adult including but not limited to the fact that the Defendant: 1) had multiple jobs, 2) obtained a driver's license and had his own car, and 3) was engaged in adult sexual conduct. As to impetuosity, there was overwhelming evidence to establish premeditation and planning of the crimes committed (the gloves, the gas canister, the kidnapping, the duct tape, the chair, the fake alibi).

II. Family and Home Environment

According to the defense, the Defendant grew up in a home with his mother, father, sister, and brother. Testimony confirmed that the Defendant's father was angry, abusive, and impulsive. Testimony further suggested that the Defendant's father abused the Defendant as well as the



Defendant's mother and brother. This abuse caused the Defendant to develop a sense of anger towards his father, therefore linking this anger as a large factor in the commission of the crimes. While the court has considered this mitigating factor, it does not weigh heavily in the courts sentence. The crime committed was unrelated to the Defendant's upbringing and home life. The victim was killed as part of a planned robbery of the KFC. The victim was the focus of the Defendant's own malice towards her. The Defendant's father has no relation to the victim or the robbery of the KFC. The victim never assaulted his father or anyone else other than the victim.

III. Circumstances of The Homicide

On January 5, 1996, the victim, Shirley Shealy, was working as manager at the Kentucky Fried Chicken (KFC) restaurant in Lexington County. As the manager, Shealy was the only employee to know the combinations to the safe located within the KFC. Shealy also knew the Defendant as they used to work together. The victim, age 25, was six months pregnant at the time of the of crimes. The Defendant waited for hours in his car outside the restaurant until all employees had left, and hid his car at the auto parts store behind the KFC before hiding in the back of the victim's car with the murder weapon. Upon entering the KFC, Defendant tied Shealy's hands behind her back with duct tape, cut her throat, and proceeded to stab her approximately 31 times before robbing the restaurant. The Defendant used latex gloves during the commission of the crimes in effort to not leave any fingerprints behind. After the murder the Defendant fled to his sister's residence in Massachusetts in attempt to escape.

There state presented overwhelming evidence to show premeditation and planning as indicated above. The evidence further established that the Defendant intended to flee the state, which of course he did. The Court also focuses on the nature of the crime. The crime scene was one of the most gruesome this Court has ever seen. The Defendant was the sole offender of an extremely aggravated crime of violence, and Shirley Shealy was the sole focus of the Defendant's malice, rage, premeditation, and planning. The victim's throat was cut, and she was stabbed approximately 31 times to her back and torso. The victim's hands were tied behind her back, and there were no signs of any defensive wounds.



IV. Incompetency Associated with Youth

The Court must also explore the incompetency associated with youth. The defense argues that this hearing is not to focus on whether Mr. Kelly was competent, but rather how the incompetency of youth is applied. The Court acknowledges, as stated earlier, that Mr. Kelly was only 5 months shy of being an adult. The Court considered that Kelly waived his Miranda rights. He provided voluntary statements to the police. Mr. Kelly used a road map while driving through a blizzard to get to Massachusetts. Mr. Kelly was represented by two death penalty qualified attorneys, and had a full defense and mitigation team. The defense also consulted with multiple psychologists. This incompetency factor weighs against the defense.

V. Possibility of Rehabilitation

Lastly the Court must look at the possibly of rehabilitation. In determining that life sentences for juveniles violate the 8th amendment's prohibition on cruel and unusual punishment, the Supreme Court noted that juveniles who commit crimes are considered to be redeemable. While this court agrees that a life sentence for a juvenile should be cautioned given the diminished culpability and heightened capacity for change of juveniles as explained in *Miller*, a life sentence is appropriate in extreme cases where redemption may not be possible and society's need for protection can only be accomplished by a life sentence.

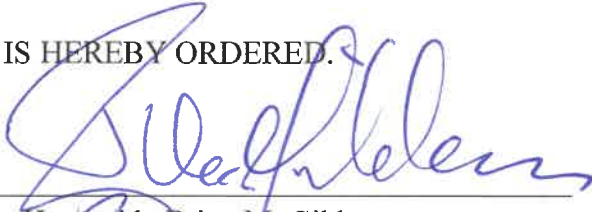
The State presented evidence that Mr. Kelly has been convicted of one assaultive disciplinary action while incarcerated, where he was found to have two shanks. Further, Mr. Kelly has also been convicted of a number of other disciplinary actions while incarcerated including: Possession of contraband, refusal to obey corrections officer, several possession of cell phones (contraband), use/ possession of marijuana or narcotics for testing positive and refusing to test. As far as education, the Court acknowledges that Mr. Kelly received his GED. However, he is not excluded from furthering his education through other educational programs offered while incarcerated and has not done such. Mr. Kelly also has not participated in any character or personal development programs offered.



CONCLUSION

Upon thoughtful review and deliberation of all evidence, including testimony, written reports, memoranda, and evidentiary documents, the Court resentsences the Defendant, William Arthur Kelly, to **Life Without Parole**. As Mr. Kelly stated to the court at the conclusion of the hearing, “By all rights you should give me a life sentence, to be honest with you. Because it is a life for a life... not one, but two”. Pursuant to South Carolina case law, the Kidnapping sentence is hereby subsumed by the sentence for Murder. By this ruling the Court specifically DENIES the Defendant’s Motion for Proportionate Sentence, and Defendant’s Motion Declaring a 40 year sentence a de facto life sentence.

IT IS HEREBY ORDERED.



The Honorable Brian M. Gibbons
Judge of the Circuit Court
State of South Carolina

June 24, 2024

DOCKET NO. 96-GS-32-3226

WITNESSES

649

Batesburg-Leesville, Oswald

Judge Clay Williams
Defendant 2-16-98
at 9:00 AM

ARREST WARRANT NO. D-600142,

D-600144, D-600143;

D-600145

ACTION OF GRAND JURY
TRUE BILL

James C. Moore Jr.
Foreman of Grand Jury 11-26-96

VERDICT

Foreman of Petit Jury

Date:

The State of South Carolina,
County of LEXINGTON

COURT OF GENERAL SESSIONS

NOVEMBER TERM 1996

THE STATE

VS.

WILLIAM ARTHUR KELLY

CDR 0116, 0095, 0139, 0549

Indictment for

COUNT ONE - MURDER
COUNT TWO - KIDNAPPING
COUNT THREE - ARMED ROBBERY
COUNT FOUR - POSSESSION OR DISPLAY
OF A KNIFE DURING THE COMMISSION
OF A VIOLENT CRIME

Donald V. Myers, Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

INDICTMENT FOR
COUNT ONE - MURDER; **COUNT TWO** - KIDNAPPING;
COUNT THREE - ARMED ROBBERY; and **COUNT FOUR** -
 POSSESSION OR DISPLAY OF A KNIFE DURING THE
 COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on November 11, 1996

the Grand Jurors of Lexington County present upon their oath.

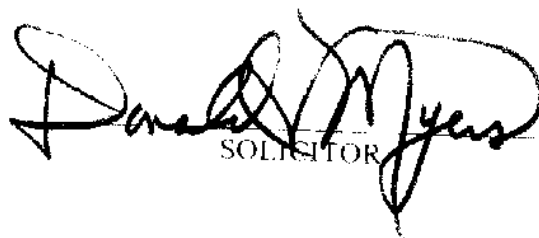
COUNT ONE - MURDER

That **WILLIAM ARTHUR KELLY**, did in Lexington County on or about January 5, 1996, willfully, feloniously and with malice aforethought kill one **SHIRLEY S. SHEALY** by means of stabbing, cutting and wounding the victim numerous times with a knife, and the said **SHIRLEY S. SHEALY** died in Lexington County on or about January 5, 1996, as a result of exsanguination due to incised wounds of the neck and multiple stab wounds to the back and chest.

COUNT TWO - KIDNAPPING

That **WILLIAM ARTHUR KELLY** did in Lexington County on or about January 5, 1996, unlawfully and feloniously seize, confine, inveigle, decoy, kidnap, abduct or carry away **SHIRLEY S. SHEALY**, in that **WILLIAM ARTHUR KELLY** did unlawfully deprive **SHIRLEY S. SHEALY** of her freedom without authority of law and in violation of § 16-3-910 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

FORM 32 (12/87)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF _____)

INDICTMENT FOR

At a Court of General Sessions, convened on _____,
 the Grand Jurors of _____ County present upon their oath:

COUNT THREE - ARMED ROBBERY

That **WILLIAM ARTHUR KELLY** did in Lexington County on or about January 5, 1996, while armed with a deadly weapon, to wit: a knife, unlawfully and feloniously take from the person or in the presence of **SHIRLEY S. SHEALY** by means of force or intimidation goods, monies or other personal items of the said **SHIRLEY S. SHEALY** and/or Kentucky Fried Chicken at 431 West Columbia Avenue in Batesburg-Leesville, such goods, monies or other personal items being described: Lawful U.S. coins and/or currency, or other personal property items, all in violation of § 16-11-330 of the South Carolina Code of Laws (1976), as amended.

**COUNT FOUR - POSSESSION OR DISPLAY OF A KNIFE DURING THE
 COMMISSION OF A VIOLENT CRIME**

That **WILLIAM ARTHUR KELLY** did in Lexington County on or about January 5, 1996, willfully and unlawfully have in his possession, or did visibly display, a knife during the commission of a violent crime or crimes, to wit: Murder and/or Armed Robbery, as defined in §16-1-60, all in violation of § 16-23-490 of the South Carolina Code of Laws (1976), as amended.

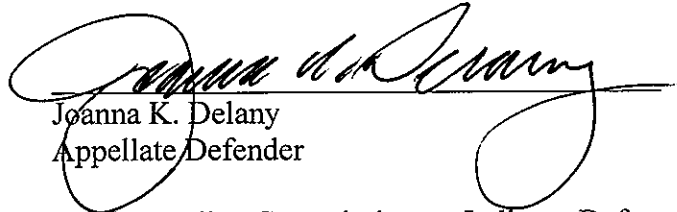
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 15th day of October, 2025.

RECEIVED

Oct 15 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Oct 15 2025
SC Court of Appeals

Appeal from Lexington County

Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM ARTHUR KELLY,

APPELLANT

APPELLATE CASE NO. 2024-001153

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Amended Record on Appeal in the above-referenced case has been served upon W. Joseph Maye, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 15th day of October, 2025.


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT