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INTRODUCTION

Stewart respectfully submits this Reply to Respondent's Return,¹ hereinafter referred to as ("RR"), and demonstrates:

1. The PCR court's orders—prepared solely by Respondent—are patently deficient because they fail to address the central evidence underlying Stewart's claims: admissions by the State's trial pathologist, Dr. Russell Harley;
2. Despite repeated notice, neither Respondent nor the PCR court corrected these defects, necessitating this appeal;
3. Respondent now attempts to shift the focus from the narrow issue before this Court—whether the orders are defective and whether discovery and a hearing were improperly denied—by litigating, for the first time, the merits of Dr. Harley's sworn statements;
4. Even if properly before this Court, Respondent's arguments fail as a matter of law; and
5. Respondent's ongoing conduct has caused avoidable and unreasonable delays in the PCR process, depriving Stewart of timely and meaningful judicial review in violation of due process.

For these reasons, Stewart respectfully requests that this Court remand with instructions to permit discovery and conduct an expedited evidentiary hearing. Stewart further requests that the Court consider appropriate relief for the irreparable constitutional harm caused by Respondent's conduct, as set forth more fully in a separate motion.

ARGUMENT

This case reflects a fundamental breakdown in the PCR process, driven by Respondent's conduct.

Respondent now concedes that Stewart's claims rest on a sworn affidavit from the State's trial pathologist, Dr. Harley. *RR p. 20*. In that affidavit, Dr. Harley retreats from his trial

¹ Stewart received the Return from the institutional mailroom on April 1, 2026. His Reply is due to be filed by April 11, 2026.

conclusion of homicide and acknowledges the death may have been a suicide. *Id. at 16, 21.* Stewart's filings consistently center on this evidence—supporting his claims of newly discovered evidence, actual innocence, and lack of subject matter jurisdiction. *Id. at 16.*

Despite this, the PCR court—through orders prepared by Respondent—recast Stewart's claims to appear based on different facts. *Id. at 18.* His newly discovered evidence claim was reframed as a Rule 5 discovery issue, and his jurisdictional claim as an indictment sufficiency challenge. *Id.* The court then ruled on, and applied procedural bars to these altered claims—not the claims Stewart actually presented. *Id.*

Stewart repeatedly notified both Respondent and the PCR court of these defects. As Respondent admits, Stewart filed a detailed Rule 59(e) motion specifically identifying these errors. *Id. at 19.* Yet Respondent and the court refused to correct them, instead asserting the orders were sufficient. *Id.*

In short:

1. Stewart presented claims grounded in Dr. Harley's affidavit;
2. Respondent drafted orders materially altering those claims;
3. The PCR court ruled on the altered claims and applied procedural bars; and
4. Both Respondent and the court refused to correct these defects despite notice.

Accordingly, Stewart seeks review of these procedural failures and submits this Reply to Respondent's Return.

(A) TIMELINE CONFIRMS PCR COURT NEVER RULED ON CLAIMS RELATED TO DR. HARLEY'S STATEMENTS

Respondent asserts that the PCR court's summary of Stewart's application—contained in the Conditional Order Respondent drafted—constitutes an implicit ruling on Dr. Harley's

sworn statement *Id. at 18*. The record disproves that claim.

The timeline is undisputed:

- Stewart filed his PCR application in October 2023; *Id. at 5*.
- Dr. Harley’s sworn statements were first obtained in March 2024; *Id. at 21*
- Those statements and related claims were presented in April 2024. *App. 1425 n. 5*.

Thus, any summary of the application in the Conditional Order necessarily predates Dr. Harley’s statements. It cannot, as a matter of logic or law, constitute findings or conclusions on evidence that did not yet exist. Respondent’s attempt to merge these distinct records—the original application and later-obtained evidence—is untenable.

Because Respondent relies solely on that preexisting summary to claim adjudication, the timeline confirms the PCR court never ruled on the claims arising from Dr. Harley’s statements.

The argument also fails legally. A court’s recitation of allegations is not a ruling. Under *S.C. Code § 17-27-80*, the PCR court must make specific findings of fact and conclusions of law on each issue presented. Mere paraphrasing—especially of allegations made before critical evidence existed—does not satisfy that requirement.

The timeline refutes Respondent’s claims that Stewart failed to diligently raise the Dr. Harley issues *RR p. 21* and that he previously asserted these “exact claims.” *Id. at 23*.

**(B) RESPONDENT'S "CHARACTERIZATION" ARGUMENT
LACKS LEGAL BASIS AND CONFLICTS WITH S.C. CODE §
17-27-80**

The record shows the PCR court did not merely issue an incomplete analysis—it addressed the wrong issues. Stewart’s newly discovered evidence claim, based on Dr. Harley’s

March 2024 statement, was recast as a Rule 5 discovery issue, and the court ruled only on that issue. *RR p. 18*. Likewise, his subject matter jurisdiction claim—grounded in Dr. Harley’s acknowledgment that the death may not have been a homicide—was reframed as an indictment sufficiency challenge, which the court likewise addressed instead. *Id.*

In effect, Respondent altered Stewart’s claims in the proposed orders to suggest they were based on different facts. This caused the PCR court to apply procedural bars to issues never raised, while failing to rule on the claims actually presented. This is not mere “characterization,” but a failure to adjudicate the claims.

Respondent concedes that the Dr. Harley claims were omitted from the court analysis, explaining that the orders relied on arguments from prior PCR actions. *Id.* Respondent described this as “shorthand.” *Id.* It further argues courts need not address claims using a party’s preferred wording. *Id. at 19*. While courts need not adopt a party’s phrasing, they must rule on the issues presented.

Moreover, Respondent’s argument is not consistent with the law. *S.C. Code § 17-27-80* requires findings on each issue—not on a materially altered substitute. Respondent’s position would permit courts to avoid review simply by redefining claims, a result incompatible with the statute and meaningful appellate review.

**(C) RESPONDENT ASKS THIS COURT TO ABANDON
LONGSTANDING PRECEDENT REQUIRING REMAND
WHERE FAILURE TO RULE WAS PRESERVED THROUGH
RULE 59(e)**

Respondent concedes that Stewart “filed a detailed Rule 59(e) motion and reply specifically flagging the alleged misstatements” and that neither Respondent nor the PCR court revised the order. *RR p. 19*. These admissions establish that Stewart:

1. Twice notified the PCR court of its failure to rule on the claims arising from Dr. Harley's sworn statement;
2. Specifically identified that the court's order materially altered his claims;
3. Properly preserved these defects through a Rule 59(e) motion; and
4. Received no findings in response.

Under these circumstances, meaningful appellate review is impossible. This Court cannot determine how Dr. Harley's statement was evaluated or whether the correct legal standard was applied.

Despite conceding preservation, Respondent asks this Court to affirm the PCR court orders. That request would require abandoning longstanding precedent mandating remand where a PCR court fails to make findings after a Rule 59(e) motion. *See Pruitt v. State*, 310 S.C. 254, 423 S.E.2d 127 (1992); *Reese v. State*, 425 S.C. 108, 820 S.E.2d 376 (2018). Respondent offers no legal basis for such a departure here.

Indeed, the PCR court's failure to address Dr. Harley's claims is consistent with the omissions in *Reese* and *Fishburne*.² Unlike those cases, however, the omitted evidence here goes to the existence of a crime itself—making the court's failure to resolve this issue substantially more prejudicial.

(D) RESPONDENT'S ARGUMENTS CONFIRM THAT THE PCR COURT NEVER ADJUDICATED THE DR. HARLEY CLAIMS

Respondent argues that: (1) Dr. Harley's statement is not a full recantation, (2) it does not affirmatively support suicide, and (3) it does not conclusively show error in the original

² 427 S.C. 505, 832 S.E.2d 584 (2019).

autopsy. *RR pp. 21–24.*³ These arguments are raised for the first time on certiorari and were neither presented to nor ruled on by the PCR court; accordingly, they are not properly before this Court.

More importantly, Respondent’s reliance on new interpretations underscores the dispositive point: the PCR court never adjudicated the claims arising from Dr. Harley’s statements. Had it done so, Respondent would rely on the court’s findings—not advance new arguments on review.

(E) RESPONDENT’S ARGUMENTS, EVEN IF PROPERLY BEFORE THIS COURT, FAIL AS A MATTER OF LAW

As established above, Respondent’s arguments were neither raised nor ruled upon below and are therefore not properly before this Court. Even if they were, they fail as a matter of law.

Respondent contends that Dr. Harley’s affidavit is insufficient because it does not definitively establish suicide or fully recant prior testimony. *Id. at 23.* This misstates the governing standard and imposes a burden far beyond what South Carolina law requires.

At this stage, Stewart need not prove entitlement to relief or conclusively establish suicide. He must only make a prima facie showing—demonstrating that the evidence, if true, provides a reasonable basis for relief. Respondent’s demand for definitive proof improperly elevates this standard.

The issue is not whether the affidavit proves suicide, but whether it undermines

³ Respondent attempts to recast its newly raised arguments and interpretations of Dr. Harley’s affidavit as though they reflect the PCR court’s findings or the implicit rationale for summary dismissal and the application of procedural bars. That characterization is not supported by the record. As Respondent’s own “shorthand” explanation establishes the order addressed Stewart’s prior PCR actions. *Id. at 18.*

confidence in the original homicide determination. The State's case relied heavily on Dr. Harley's testimony attributing the skull fracture to blunt force trauma. That same expert now concedes, "I could be wrong." This is not trivial—it is a direct retreat from certainty on the central issue.

Under *Kyles v. Whitley*,⁴ evidence is material if it undermines confidence in the verdict. Here, the State's own pathologist has introduced doubt into the core forensic conclusion supporting the conviction.

The affidavit's significance is further strengthened by Dr. Harley's post-trial concessions regarding toxicology:

- Only a basic screening was performed; and
- More extensive testing would have been conducted had suicide been considered. *App.* 1593.

This confirms that the original conclusions were reached under a homicide-focused framework that failed to adequately investigate alternative causes of death. Accordingly, the absence of detected substances cannot be treated as dispositive where testing was incomplete.

Dr. Harley's affidavit therefore directly calls into question:

1. The cause of death;
2. The reliability of the forensic conclusions; and
3. Whether a criminal act occurred at all.

Where newly discovered evidence undermines the existence of a homicide, it necessarily satisfies materiality.

⁴ 514 U.S. 419, 115 S.Ct 1555 (1995).

Under *Clark v. State*,⁵ relief is warranted where new evidence is material and would probably change the result. Taken as true, the affidavit establishes:

- The State's expert is no longer certain of the cause of death;
- The original forensic conclusion may be erroneous;
- Suicide and other alternatives were not fully investigated;
- Toxicological analysis was incomplete; and
- The State's case rested on now-questioned medical testimony.

At minimum, this creates a reasonable probability of a different outcome—satisfying *Clark*.

Federal law is consistent. Under *Schlup v. Delo*,⁶ relief is appropriate where new evidence makes it more likely than not that no reasonable juror would convict.⁷ This standard requires only doubt as to the reliability of the conviction, not definitive proof of innocence. Dr. Harley's affidavit meets that threshold by directly undermining the State's core theory.

Respondent's argument improperly shifts the burden from showing a reasonable basis for relief to proving suicide. That is not the law.

Stewart is not required to prove suicide at this stage—only that the conviction may be unreliable. The sworn statement of the State's own pathologist more than satisfies that burden. Accordingly, Respondent's arguments, even if properly before this Court, fail as a matter of law.

⁵ 315 S.C. 385, 434 S.E.2d 266 (1993).

⁶ 513 U.S. 298, 115 S.Ct 851 (1995).

⁷ See footnote 9.

**(F) RESPONDENT'S ARGUMENTS DEMONSTRATES THAT
DISCOVERY AND AN EVIDENTIARY HEARING WERE
REQUIRED**

Respondent asserts that summary dismissal without discovery or a hearing was proper because Stewart's claims are procedurally barred and fail under the newly discovered evidence standard. The record—and Respondent's own arguments—demonstrate the opposite.

Respondent acknowledges that Dr. Harley's affidavit was obtained in **March 2024**. *RR p. 21*. At minimum, this creates a factual dispute as to availability, due diligence, and materiality—issues that cannot be resolved on the pleadings. They require evidentiary development.

Procedural bars do not apply to claims implicating subject matter jurisdiction or actual innocence, both of which are implicated here. Moreover, the PCR court did not apply its procedural-bar analysis to Stewart's claims, but to materially altered claims advanced by Respondent. *Id. at 18*. Thus, the order fails to adjudicate the claims actually presented.

Respondent also attempts to interpret Dr. Harley's affidavit—arguing it is not a recantation, does not support suicide, and does not undermine the original findings. *Id. at 21, 23*. But the PCR court made no findings on these issues. By raising them for the first time on appeal, Respondent confirms the existence of unresolved factual disputes requiring a hearing.

Those disputes are not legal—they are factual. The meaning, weight, and credibility of the affidavit require testimony, cross-examination, and judicial fact-finding.

Respondent's own argument presents competing forensic explanations central to whether a crime occurred:

1. The State's original theory of homicide by blunt force trauma; and
2. A competing explanation involving postmortem heat fracture and suicide by ingestion, which the State's trial pathologist now acknowledges as possible. *Id. at 22.*

Such conflicts cannot be resolved summarily.

Respondent's effort to minimize the affidavit further underscores its significance. If it were immaterial, no such analysis would be necessary. Its meaning and impact are plainly disputed.

Respondent's reliance on selective portions of the affidavit also demonstrates the need for discovery. While emphasizing normal toxicology results, Respondent omits that only a basic screen was performed based on a homicide assumption. *RR p. 21; See App. 1593.* Dr. Harley acknowledges that more extensive testing would have been required had suicide been considered. *RR p. 22.*

This creates a direct factual dispute regarding the adequacy of the forensic investigation. Without discovery, Stewart had no meaningful opportunity to obtain full toxicology records, examine methodology, review autopsy materials, or develop independent forensic analysis.

Summary dismissal is proper only when the record conclusively shows no entitlement to relief. Here, Respondent's own arguments establish:

1. Conflicting expert interpretations;
2. Incomplete forensic testing;
3. A revised position by the State's own expert; and
4. Unresolved factual questions central to the conviction.

In sum, Respondent's arguments do not support summary dismissal—they demonstrate

why discovery and an evidentiary hearing were required.

**(G) RESPONDENT'S DELIBERATE AND ONGOING CONDUCT
HAS RESULTED IN CONSTITUTIONAL DELAY**

The record demonstrates that Respondent has deliberately caused avoidable and excessive delay in these PCR proceedings, both below and before this Court, depriving Stewart of timely and meaningful judicial review of the claims arising from Dr. Harley's affidavit in violation of due process.

At the lower court level, the delay is directly attributable to Respondent. Respondent prepared the PCR orders, materially altered Stewart's claims by omitting Dr. Harley's statements, and refused to correct that omission despite repeated notice. *Id. at 18-19.*⁸ As a result, claims that should have been resolved in the 2024 PCR proceeding have been delayed for over two years.

This delay is especially significant because it concerns evidence material to the existence of a crime. Stewart has remained incarcerated while nearing completion of a sentence potentially based on a crime that never occurred.

Respondent's conduct has continued before this Court. After requesting four extensions, Respondent filed a Return with no factual or legal viability, serving only to prolong the proceedings. Respondent's approach contrasts with *Reese v. State*, where the respondent, faced with a defective PCR order, sought remand rather than defending the indefensible.

Respondent's intent to prolong the proceedings is further reflected in its request for

⁸ Notably, Respondent acted as both advocate and de facto adjudicator, effectively depriving Stewart of his due process right to meaningful judicial review.

expanded briefing if the Petition is granted *RR p. 24*, despite previously acknowledging that remand would be the appropriate course. *Bond Return p. 5*. "[I]f [Stewart] prevails in this appeal, the appropriate action will be to remand the case back to the lower court for reconsideration of the filings and potentially an evidentiary hearing on the merits "

In sum, Respondent's conduct has produced excessive delay in the review of evidence central to the existence of a crime, resulting in prolonged incarceration despite credible evidence undermining the conviction. This deprivation of timely judicial review violates due process.

Respondent has shown no willingness to cease these tactics absent intervention. The resulting irreparable constitutional harm entitles Stewart to relief, as addressed separately.

(H) THE ABSENCE OF HOMICIDE MITIGATES STEWART'S POST-DEATH CONDUCT

Respondent contends that Stewart's post-death conduct is significant. *Id. at 23*. That conduct, however, cannot be viewed in isolation. It must be assessed in the context of an evolving body of credible, independently corroborated evidence demonstrating that suicide is the most plausible manner of death.

The State's own DNA expert confirms that the biological evidence is consistent with Stewart's attempts at resuscitation. *App. 296-98; 939*. The State's forensic crime scene investigator likewise observed no evidence of violence at the scene. *Id. at 1222*. Most notably, the State's trial pathologist has retreated from his prior certainty that the death was a homicide and now acknowledges the possibility of suicide. *Id. at 1593*.

This forensic record is further reinforced by C.A.'s own words—memorialized in a letter written shortly before her death—in which she explicitly expressed suicidal ideation. *Id.*

at 1449-54.

If the death was a suicide, the factual basis for the desecration charge is substantially mitigated. While Stewart's post-death conduct remains inappropriate, it must be viewed not as conduct associated with homicide, but as actions taken in the aftermath of a traumatic suicide involving his girlfriend dying in his arms.

This distinction is critical.

Dr. Harley further notes Stewart's pre-existing mental health history—including childhood sexual abuse, bullying, dissociative amnesia, and PTSD—which directly impacts how he processes trauma. *Id.* at 1592. *See Supp. App.* 218-20; 248-54. Stewart was also just 19 years old at the time—an age associated with incomplete brain development and reduced emotional regulation—further impairing judgment under extreme stress. These factors are well recognized as diminishing an individual's ability to make reasoned decisions in traumatic situations.

Viewed in this context, Stewart's actions—though undeniably wrong—are consistent with a trauma-induced response following the shock of witnessing his girlfriend's death. The conduct underlying the desecration conviction must therefore be evaluated in light of (1) a potentially misdiagnosed cause of death, (2) an acute traumatic event, and (3) Stewart's documented psychological vulnerability to adverse trauma responses, compounded by his youth and lack of maturity.⁹

⁹ The record, viewed as a whole—particularly in light of the absence of direct evidence of homicide, the favorable forensic evidence, C.A.'s letter reflecting suicidal ideation, and Stewart's psychological history—demonstrates that no reasonable juror would find him guilty of voluntary manslaughter beyond a reasonable doubt.

CONCLUSION

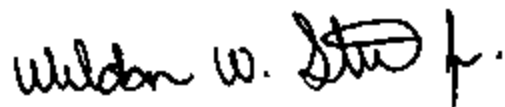
WHEREFORE, For the foregoing reasons, the record establishes that the PCR court failed to adjudicate the claims arising from Dr. Harley's sworn affidavit, despite those claims being properly presented and preserved. Respondent's own arguments confirm the existence of unresolved factual disputes, the materiality of the omitted evidence, and the impropriety of summary dismissal without discovery or an evidentiary hearing. Meaningful appellate review is therefore impossible on the current record.

Accordingly, Stewart respectfully requests that this Court:

1. Grant the Petition for Writ of Certiorari;
2. Vacate the PCR court's orders; and
3. Remand with instructions to permit discovery and conduct an expedited evidentiary hearing addressing the claims arising from Dr. Harley's affidavit.

In addition, Stewart respectfully requests that the Court consider such further relief as may be necessary to remedy the ongoing constitutional harm caused by Respondent's conduct and the resulting delay in meaningful judicial review, as set forth more fully in a separate motion.

Respectfully submitted,



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