

No prior case presents this same combination of constitutional violations and evidentiary facts. This matter is not about ordinary delay or dissatisfaction with routine post-conviction proceedings. It is about whether due process permits Stewart to remain imprisoned while Respondent blocks fair consideration of evidence that undermines both the factual and legal basis of the conviction.

Although Respondent attempts to obscure the issues with strained arguments, Stewart submits one simple question: When is enough enough?

ARGUMENT

Stewart will complete his voluntary manslaughter sentence on June 6, 2026, after serving 25 years and 6 months in prison for a crime that potentially never occurred. He is now little more than a month from completion of this sentence. Time wrongfully served cannot be returned.

This makes the constitutional harm immediate and irreparable. Each additional day under constitutionally defective proceedings is a permanent loss of liberty no later order can restore. Remand for discovery or a hearing would not cure that injury. The violation is not mere delay—it is the denial of a fair process caused by Respondent’s obstruction of judicial review. If Stewart remains incarcerated during remand, he will complete his sentence before meaningful relief is possible. In that circumstance, remand is no remedy at all.

Remand would also reward Respondent with a second bite at the apple. Respondent had a full opportunity for factual dispute during the PCR proceedings but instead altered claims in the orders it drafted, omitted issues tied to Dr. Harley’s sworn statement, and refused to correct those defects despite notice. Only now—after the defect is exposed—does Respondent seek a second chance to contest that evidence.

Due process does not permit Respondent to benefit from delay it caused. Each additional step consumes the remaining sentence tied to a conviction substantially undermined by evidence kept from review. Delay has become Respondent's advantage and Stewart's loss of liberty.

Bond is therefore the only relief that preserves the integrity of the appellate process. Under these circumstances, it is not extraordinary—it is the narrowest effective remedy to prevent ongoing violations from becoming permanent through the mere passage of time.

Stewart respectfully requests that the Court grant bond and immediate or conditional release, and reject Respondent's arguments addressed below.

A. RESPONDENT'S "ROUTINE DELAY" ARGUMENT IS CONTRADICTED BY THE RECORD.

Respondent characterizes this case as involving routine delays inherent in post-conviction proceedings. *RO p. 6*. That characterization is incorrect.

This case is not about the ordinary pace of collateral review. It concerns Respondent's direct role in preventing adjudication of claims properly before the PCR court. The record shows Respondent:

- Drafted the PCR court's orders;
- Altered or omitted claims arising from Dr. Harley's affidavit; and
- Refused to correct those defects after explicit notice.

As a result, the PCR court ruled on substituted claims and never adjudicated the claims actually presented. This was not routine delay—it was state-created interference with the adjudicative process.

Respondent's argument improperly conflates delay with obstruction. The constitutional violation arises not from time alone, but from Respondent's role in causing the failure to rule on material claims, thereby depriving Stewart of meaningful judicial review.

Respondent also argues that requesting extensions and filing Returns are ordinary parts of appellate litigation. *Id.* at 6–7. In general, that is true—but it misses the point.

The issue is not Respondent's participation in the appellate process, but Respondent's misuse of it. It is not routine for a respondent to:

- Defend patently defective PCR orders;
- Refuse to correct known defects after notice; or
- File Returns lacking factual or legal merit.

The defect in the PCR orders is clear: they do not adjudicate the claims arising from Dr. Harley's affidavit. Yet Respondent continues to defend those orders while acknowledging they addressed issues from prior proceedings, not the claims raised here. See *RR p. 18*. That inconsistency shows the orders are not merely imperfectly worded, but substantively defective.

Respondent's conduct also departs from accepted practice. In *Reese v. State*,¹ when faced with a similarly defective PCR order, the respondent sought remand for proper adjudication rather than defend the order through strained argument. Here, Respondent instead chose to defend the indefensible, unnecessarily prolonging the case and wasting judicial resources.

Thus, while extensions and filings may be routine, defending patently defective orders is not. Combined with Respondent's refusal to correct those defects and continued reliance on

¹ 425 S.C. 108, 820 S.E.2d 376 (2018).

arguments that misstate the record, these actions directly contribute to the unconstitutional delay at issue.

Accordingly, Respondent's reliance on ordinary litigation practices neither justifies its conduct nor lessens the need for this Court's intervention.

**B. RESPONDENT'S "PROCEDURAL BAR" ARGUMENT CONFIRMS—
RATHER THAN CURES—THE DEFECT**

Respondent argues the procedural bars are "dispositive." *RO pp. 6, 7-8*. That fails for one basic reason: procedural bars cannot apply to claims the PCR court never adjudicated. Respondent asks this Court to presume adjudication where none occurred and uphold orders it admits are defective, or "imperfectly worded." *Id. at p. 6*.

This Court has also held that a later PCR application—even a third or fourth—is not barred when based on newly discovered facts that fundamentally change the case's legal posture. *Tilley v. State*, 234 S.C. 24, 511 S.E.2d 689 (1999); *Coats v. State*, 352 S.C. 500, 575 S.E.2d 557 (2003). That rule applies here because these claims arise from the sworn affidavit of the State's trial pathologist, obtained only in March 2024. *RR p. 21*.

Respondent also fixates on wording in Dr. Harley's affidavit, noting he did not expressly call the suicide evidence "credible." *RO p. 7*. That hyper-technical argument ignores both substance and common sense.

Dr. Harley—the State's own trial pathologist—swore that his prior homicide conclusion could be wrong. *Id.* This was not a neutral or insignificant remark. It is a material concession from the State's primary forensic witness that the foundation of the conviction may be mistaken.

Respondent focuses on the absence of one word while ignoring the meaning of the admission. If the homicide conclusion may be wrong, then the alternative explanation—

suicide—is necessarily plausible enough to require reconsideration. Otherwise, there would be no reason to retreat from the original opinion.

It defies logic to claim an expert would formally withdraw confidence in a homicide finding under oath while viewing the only alternative explanation as wholly lacking credibility.

Accordingly, Respondent's procedural bar argument confirms the central defect: the court never addressed the actual claims.

C. STATE AND FEDERAL LAW SUPPORT A DUE PROCESS VIOLATION

Respondent argues its conduct did not cause constitutional harm. *Id. at 6–7*. State and federal law say otherwise.

In *Washington v. State*,² this Court held that procedural irregularities in the judicial process can constitute a denial of due process. The same occurred here. Stewart was denied meaningful judicial review of Dr. Harley's sworn statement. Unlike *Washington*, however, the denial here resulted from Respondent's obstruction of the judicial process by reframing Stewart's claims in proposed orders and refusing to correct the error after notice. This Court recognized in *Washington* that such unusual circumstances warrant relief. See *Case v. State*, 277 S.C. 474, 289 S.E.2d 413 (1982).

Respondent's reliance on *Hicks v. Frame*³ is misplaced. *Hicks* did not hold that a 27-year delay was constitutional. It held only that later state-court adjudication during federal oral argument prevented waiver of the federal exhaustion requirement. Unlike *Hicks*, Stewart's claims based on Dr. Harley's affidavit have never been adjudicated.

² 324 S.C. 232, 478 S.E.2d 833, 835 (1996).

³ 145 F.4th 408 (4th Cir. 2025).

This case is also factually distinct from *Hicks*. That case involved delay alone. This case involves delay plus Respondent's obstruction of judicial review. Hicks was serving life without parole. Stewart is little more than a month from completing the challenged sentence, and his remaining sentence is for a nonviolent offense eligible for supervised release. Further, this case involves newly discovered evidence obtained in March 2024 undermining the existence of a homicide and implicating subject matter jurisdiction—issues absent in *Hicks*.

Thus, *Hicks* provides no support for Respondent's position.

Respondent also argues there is no constitutional right to “speedy” PCR review. *Id. at 7*. Even if so, speed is not the issue—it is due process. Due process guarantees a meaningful opportunity to be heard and a ruling on properly presented claims. That did not occur because Respondent's conduct prevented the PCR court from addressing the claims tied to Dr. Harley's affidavit.

Federal courts likewise recognize that state-caused delay may violate due process. *United States v. Johnson*, 732 F.2d 379 (4th Cir. 1984). Courts apply the *Barker v. Wingo*, 407 U.S. 514 (1972), factors: (1) length of delay, (2) reason for delay, (3) assertion of the right, and (4) prejudice. Stewart satisfies all four.

First, courts have found delays as short as two years sufficient to trigger due process concerns. See *Rheuark v. Shaw*, 628 F.2d 297 (5th Cir. 1980). Second, Respondent caused the delay.

Third, Stewart promptly raised the claims arising from Dr. Harley's affidavit within one month of discovering the evidence. *App. 1425 note 5*. He reasserted them twice in responses to the Conditional Order, then twice more notified Respondent and the PCR court through a Rule 59(e)

motion and reply that the court's orders omitted those claims. *Id. at 1536-40; 1588-90; 1619-21, 1625-28; 1654-56.*⁴

Fourth, Stewart has suffered severe prejudice. He has endured anxiety, continued incarceration for a crime that may never have occurred, and is nearly finished serving the voluntary manslaughter sentence. Respondent's conduct has effectively deprived him of meaningful relief even if he proves the death was a suicide.

Accordingly, both state and federal law establish that the delay resulting from Respondent's conduct violates due process.

D. RESPONDENT'S ARGUMENT OF "MULTIPLE LAYERS OF REVIEW" OMITTS A CONTINUOUS PATTERN OF OBSTRUCTED REVIEW OF NEWLY DISCOVERED EVIDENCE

Respondent asserts that Stewart has received "multiple layers of review". *RO p. 7, 8.* That assertion omits a critical reality: judicial review of newly discovered evidence claims has repeatedly been obstructed at every stage of the proceedings.

First, in 2014, Stewart discovered that a juror was the same man who had previously tried to run him over with a vehicle because Stewart was dating the juror's ex-girlfriend. *App. 999-1001.* Stewart presented this claim to the trial court in 2016. *Id. at 1225.* Although the court orally labeled the motion "frivolous," it never entered a written order, preventing appellate review and shielding the issue from meaningful consideration. *Id. at 1049.*

Second, in 2018, Stewart discovered previously withheld crime scene notes from the State's investigator documenting that no evidence of a violent struggle existed at the scene of death. *Id. at 1131, 1222.* He raised this evidence in his 2018 PCR application. *Id. at 1228-29,*

⁴ Stewart repeatedly and specifically stated that his claims were based on Dr. Harley's statements. Thus, Respondent's omission of this evidence from the drafted orders was not oversight, but a deliberate effort to block judicial review.

1131. Respondent then drafted an order claiming the notes had been disclosed in 2003 through prosecutorial correspondence. *Id. at 1244,1297*. But no such correspondence appears in the record, and Respondent has failed to produce it despite direct challenge in this proceeding. *See Respondent's October 13, 2025, Motion Return p. 12.*⁵ Thus, the finding of prior disclosure—which was used to deny review—rests on unsupported assertions, not evidence.

Third, in 2024, Dr. Harley's statement under oath revealed that the crime scene notes had also been withheld from him. *App. 1592*. (“*It is not clear to me that the site in the woods where [C.A.] is alleged to have died was examined by the SLED services.*”) He further acknowledged that the absence of blood at the scene, documented in those notes, was significant. *Id. at 1593.*⁶ These factors contributed to his retreat from confidence in his homicide conclusion. *Id.* Respondent obstructed review of the claims tied to Dr. Harley's affidavit.

These events show a consistent pattern:

- Material evidence is discovered;
- Review is blocked through procedural or factual barriers; and
- Resulting rulings prevent meaningful appellate review.

This is not a case of repeated judicial consideration of the same claims. It is a case where each layer of review has been compromised by the State's failure to allow full and fair adjudication of newly discovered evidence.

⁵ Notably, the record includes prosecutorial correspondence from 2003—submitted by Stewart in the 2018 PCR action—showing that the evidence was never disclosed. *App. 1215-16*.

⁶ The absence of blood at the death scene is significant, as a fatal injury to the head would typically be accompanied by substantial bleeding. *Id. at 1470-71*. In contrast, a postmortem thermal injury would not produce such bleeding. *Id.* Therefore, the lack of blood is consistent with the right parietal skull fracture having occurred postmortem. *Id. at 1593*. Accordingly, Dr. Harley acknowledged that he could have been mistaken in concluding that this injury caused death. *Id.*

Respondent cannot rely on the mere existence of prior proceedings as a substitute for meaningful review. When review is blocked through missing appealable orders, unsupported factual assertions, or suppression of material evidence, due process is violated.

Accordingly, the procedural history cited by Respondent does not weigh against relief. It demonstrates a recurring pattern of constitutional violations that heightens the need for this Court's intervention.

E. RESPONDENT'S ARGUMENT THAT STEWART SEEKS TO PREEMPT PAROLE AUTHORITY IS INCORRECT

Respondent mischaracterizes Stewart's request as an attempt to override the parole board. *RO p. 8.*

Stewart seeks no parole order. He asks this Court to do what Rule 243(k), SCACR permits: consider all relevant circumstances in deciding release.

Those circumstances include:

- Supervised release eligibility on June 6, 2026;
- An already active release process; and
- State actions consistent with anticipated release.

Granting bond would not supplant parole authority. It would align judicial relief with an executive process already moving toward supervised release.

F. NO IRREPARABLE HARM/VIOLENT CLASSIFICATION ARGUMENTS FAIL

Respondent argues Stewart suffers no irreparable harm because he is "lawfully incarcerated." *RO p. 8.* That presumes the validity of a conviction now undermined by credible evidence blocked from review.

The presumption of regularity depends on fair procedures. Where appealable orders are missing, unsupported assertions deny relief, and material evidence is obstructed, continued confinement compounds the due process injury.

Respondent also relies on the offense classification as violent. *RO p. 9*. That fails because:

1. Stewart's manslaughter sentence expires June 6, 2026, after which he transitions to nonviolent custodial status subject to supervised release; and
2. The argument assumes the validity of the very conviction under challenge.

The State cannot rely on the conviction's label while blocking review of evidence calling the conviction itself into question.

G. STEWART'S TRUST STATUS AND THE TOTALITY OF CIRCUMSTANCES CONFIRM HE IS UNIQUELY SUITABLE FOR BOND

Respondent does not meaningfully address one of the Court's most important practical considerations: Stewart's demonstrated trust status within the South Carolina Department of Corrections and the objective evidence showing he is uniquely suitable for bond or conditional release. Instead, Respondent relies on labels tied to a decades-old conviction and procedural arguments unrelated to present risk.

First, Stewart's minimum custody level and trust status reflects the considered judgment of correctional officials who have observed him for years. That status is earned through sustained responsibility, rule compliance, reliability, and conduct consistent with reduced security concerns. It directly undercuts any claim that Stewart presents a danger or is unsuitable for supervised release.

Second, Stewart's lengthy incarceration without evidence of ongoing dangerousness strongly favors release. After more than twenty-five years in custody, the relevant question is

whether he presently poses a risk if released under Court-imposed conditions. Respondent offers no meaningful evidence that he does. By contrast, his trusted job designation working outside the prison, unsupervised is objective evidence of rehabilitation, stability, and self-control.

Third, Stewart has substantial family and community support ready to assist immediately upon release. He has a stable network prepared to provide housing, transportation, accountability, and reintegration support. Those ties reduce any concern about nonappearance and support a successful transition.

Fourth, Stewart's remaining custodial status also favors relief. As explained in the Reply, his voluntary manslaughter sentence is nearing completion, and the process toward supervised release is already underway. Respondent cannot credibly claim Stewart is too dangerous for judicially supervised bond while the State itself is preparing to potentially release him through administrative channels.

Fifth, the extraordinary constitutional and evidentiary posture of this case further supports bond. Stewart seeks narrowly tailored relief while serious due process violations remain unresolved and newly discovered evidence—including sworn testimony from the State's own pathologist—substantially undermines confidence in the conviction. Continued incarceration during prolonged litigation imposes irreparable harm without corresponding public benefit.

Considering all relevant factors—Stewart's trusted institutional status, proven adjustment in custody, absence of evidence of present dangerousness, strong family support, imminent transition toward release, and the exceptional posture of this case—Stewart satisfies every practical and equitable basis for bond. Respondent does not rebut these facts; it relies instead on abstractions disconnected from Stewart's present circumstances.

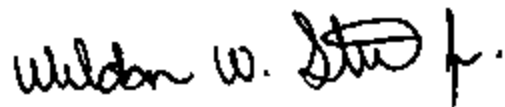
CONCLUSION

This case is about whether the law will permit a man to lose the final months of his liberty while the State avoids meaningful review of evidence striking at the heart of the conviction. Stewart has shown more than delay. He has shown obstruction, prejudice, and irreparable harm unfolding in real time. When the State's own expert now doubts whether any homicide occurred, justice cannot be satisfied by further procedural stalling.

The equities, the record, and due process point to one result: the Court should grant Stewart's motion for bond and order immediate release, or alternatively conditional release on just terms.

If relief is denied, Stewart respectfully requests written findings and reasons sufficient to preserve meaningful appellate review.

Respectfully submitted,



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