

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

William Jeffrey Young, Circuit Court Judge

VOL II OF II

RECEIVED

JUL 28 2014

S.C. Supreme Court

RANDALL S. TYLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000795

APPENDIX

DAVID ALEXANDER
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOHN WALT WHITMIRE
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS
COURT:**

**PETITIONER'S EXHIBITS # 1 – 8 (PHOTOGRAPHS)
PETITIONER'S EXHIBIT # 18 (TAPE)**

1 THE COURT: All right. Mr. Lee.

2 MR. LEE: Thank you, Your Honor.

3 This is Randall Tyler versus the State of South
4 Carolina. It is 2007-CP-32-0097. And before we continue,
5 the applicant's attorney has a motion to put before the
6 Court.

7 THE COURT: What page is this one on?

8 MR. LEE: It was originally scheduled for
9 Monday, Your Honor.

10 THE COURT: Monday.

11 All right. Mr. Tyler's present.

12 Come around, please, Mr. Tyler.

13 And this is Ms. Turner?

14 MS. TURNER: Yes, sir.

15 THE COURT: All right, Ms. Turner. Glad to hear
16 from you.

17 MS. TURNER: Thank you, Your Honor.

18 My client, Mr. Tyler, has asked me to make a
19 motion for a continuance. The basis for that motion is
20 that we have actually been here before. Mr. Tyler has
21 been the victim of a set of circumstances at the prison.
22 His entire case file was thrown away by a prison guard.
23 There's a suit pending regarding that. There's an
24 investigator that's assigned to that and they're making
25 diligent efforts along with myself to recreate that file.

1 One of the directives at our last hearing was
2 for me to obtain and be able to obtain the case file of
3 Mr. Bolt. I did start efforts to obtain that file
4 immediately after the hearing. Unfortunately, I was not
5 able to receive it in my office until last Friday. And I
6 was out of town then and wasn't able to get it until I
7 returned.

8 I have met with Mr. Tyler regarding the contents
9 of the file. My understanding is that the contents of the
10 file took up an entire box. This is the file in its
11 entirety as I've received it.

12 And going through the file, Mr. Tyler and I have
13 discovered that there are many items that he originally
14 possessed, or his attorney originally possessed, that are
15 not in the file that may be due to either his attorney not
16 obtaining that evidence or it not being turned over to him
17 or that it was thrown away and not able to be recovered as
18 a great deal of Mr. Tyler's materials were not recovered.

19 Among the items that we don't have still but
20 have some hope of getting are co-defendant's statements
21 that are critical to Mr. Tyler's PCR action along with
22 some evidence that was admitted at trial that there are
23 not copies of and Mr. Bolt's file and an entire or almost
24 an entire SLED file that Mr. Tyler was not able to
25 recover.

1 There are other things. Those are the most
2 critical things. And Mr. Tyler feels very strongly that
3 since he has one opportunity to pursue this PCR, that
4 should be a fair opportunity, and he should be able to at
5 least have every opportunity to regain everything that he
6 feels is important to his case and that I feel as his
7 attorney is important to his case before he's made to
8 proceed.

9 THE COURT: Thank you, Ms. Turner.

10 Mr. Lee.

11 MR. LEE: Yes, Your Honor.

12 I'd just note for the Court that the case has
13 been continued based on my count, and I might be off one
14 or two, but seven times. The documents or the pictures or
15 whatever, the file that she requested, to my knowledge she
16 got on Friday and I continued it from Monday -- Ms. Turner
17 did -- and I moved the case originally scheduled for
18 Monday to today to give them a little bit more time to
19 look over it.

20 I do understand that she's saying now that
21 there's still some things that she hasn't been able to get
22 yet, so I'd just leave it to the Court's discretion, Your
23 Honor.

24 MS. TURNER: And, I'm sorry, Your Honor, if I
25 might.

1 THE COURT: Yes, ma'am.

2 MS. TURNER: And, again, and I certainly
3 understand the directives, but my directive at the last
4 hearing was to first get Mr. Bolt's file and then move to
5 conduct any other discovery that I might need based on
6 that file. Because I was not able to get it until Friday,
7 I just haven't had an opportunity to go over the remainder
8 of that file.

9 And Mr. West is certainly correct in that the
10 case has been continued several times --

11 THE COURT: You mean Mr. Lee?

12 MS. TURNER: I'm sorry, Mr. Lee is correct in
13 that the case has been continued several times, but that
14 is not any fault of Mr. Tyler's. Again, he had the
15 information and the documentation that he needed and it
16 was -- you know, it was taken away from him.

17 THE COURT: What's the time frame you're talking
18 about, Ms. Turner -- you know, it's hard to predict the
19 future, obviously -- to reconstruct the file, to get the
20 case in the position where it can be heard? It's not fair
21 to the State, it's not fair to Mr. Tyler, it's obviously
22 not fair to whoever the family of the victims -- you know,
23 the victim's family. Do you have a time frame? Are
24 subpoenas out to the sheriff's office, to SLED?

25 MS. TURNER: Actually, Your Honor, I was

1 directed not to issue subpoenas for those records until --

2 THE COURT: Did I direct you not to or was there
3 another judge?

4 MS. TURNER: I believe it was Your Honor who --
5 and not you can't get it that way but first get Mr. Bolt's
6 file.

7 THE COURT: I understand.

8 MS. TURNER: And now that I know what's in
9 Mr. Bolt's file I can issue those subpoenas. I would ask
10 that Mr. Tyler be granted leave to proceed without costs
11 in the matter because my office did pay for the pictures,
12 and there are several of those, and Mr. Tyler of course is
13 indigent, so I'd ask to be able to proceed without costs
14 in that discovery effort. And I imagine that being
15 allowed to proceed with discovery on the basis of the
16 rules, it shouldn't take longer than the next term of
17 PCRs.

18 Your Honor, just specifically, my client is
19 asking that he be able to reorder and reobtain without
20 cost the SLED file that he originally ordered and paid for
21 himself. He has some materials from that file. I've seen
22 them. It's probably an inch thick. From what Mr. Tyler
23 tells me, his original file from SLED was much thicker and
24 there are many materials that he wasn't able to recover
25 from that.

1 THE COURT: All right. I'll continue the case
2 to the next term of court.

3 Ms. Turner, if you'll submit to me, please,
4 proposed orders to SLED, to the Solicitor's office, to the
5 investigating agency.

6 I said the sheriff's department. The only
7 reason I said that is when I looked in here, I noticed
8 names that I know from the Lexington County Sheriff's
9 Department. I have not read the transcript. But take
10 those orders simultaneously, e-mail them -- proposed
11 orders to Mr. Lee and my law clerk and I will consider
12 signing them for those agencies to present files to you
13 without cost.

14 Anything further?

15 MS. TURNER: Thank you so much, Your Honor.
16 That will be all.

17 THE COURT: Anything further, Mr. Lee?

18 MR. LEE: Nothing from the State, Your Honor.

19 THE COURT: The case needs to be resolved,
20 though. It needs to be heard.

21 MS. TURNER: Thank you, Your Honor.

22 (The proceedings were concluded.)

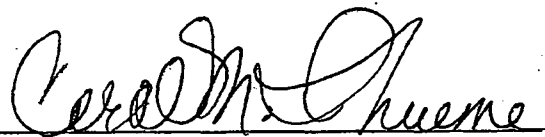
23 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
24
25

1 CERTIFICATE OF REPORTER
2
34 STATE OF SOUTH CAROLINA)
5)6 COUNTY OF LEXINGTON)
7

8 I, CAROL M. THUEME, RPR, Official Court Reporter for
9 the 11th Judicial Circuit of the State of South Carolina,
10 do hereby certify that the foregoing is a true, accurate
11 and complete Transcript of Record of the proceedings had
12 and evidence introduced in the trial of the captioned
13 case, relative to appeal, in the Court of Common Pleas for
14 Lexington County, South Carolina, on the 17th day of
15 September, 2010.

16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18

19 May 21, 2014
20

21 
22

23 CAROL M. THUEME, RPR
24 Circuit Court Reporter
25

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2007-CP-32-0907

ORIGINAL

Randall Tyler
PLAINTIFF(S)

State of South Carolina
DEFENDANT(S)

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☒ Statement of Judgment by the Court:

Case continued until January term of court.

Dated at Lexington, South Carolina, this 2nd day of December, 2010.

FILED
200 DEC -6 A 11:38
BETH A. CARTWRIGHT
CLERK OF COURT
LEXINGTON, SC

William P. ...
PRESIDING JUDGE

This judgment was entered on the N/A day of N/A, 20 --, and a copy mailed first class this 8th day of Dec., 2010 to attorneys of record or to parties (when appearing pro se) as follows:

Adrianne Turner
ATTORNEY(S) FOR THE PLAINTIFF(S)

A. West Lee
ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

ORIGINAL⁰⁹

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE ELEVENTH JUDICIAL CIRCUIT
)
COUNTY OF LEXINGTON) Case No.: 2007-CP-32-0907
)
Randall S. Tyler)
)
Applicant) ORDER OF CONTINUANCE
)
vs.)
)
State of South Carolina)
)
Respondent.)

THIS MATTER IS BEFORE THE COURT by way of a post-conviction relief application filed March 16, 2007. An evidentiary hearing was convened on Friday, September 17, 2010. The applicant was present at the time of the hearing and represented by Adrienne L. Turner, Esquire. West Lee of the South Carolina Attorney General's office represented the Respondent. The applicant's attorney moved for a continuance in the matter and also moved to be granted leave to conduct discovery in the case without cost, specifically requesting access to the applicant's original SLED file in its entirety as well as the Solicitor's file. Good cause being shown, this Court grants a continuance in the matter. Furthermore, this Court finds that the applicant's request to proceed with discovery without costs is reasonable and necessary.

IT IS THEREFORE ORDERED THAT:

1. The post-conviction relief hearing is **CONTINUED** to the next suitable term of post-conviction relief court occurring at least ninety days after the date of this order so as to provide the applicant's attorney an opportunity to conduct discovery.
2. Applicant's PCR Counsel is hereby granted leave to conduct discovery without cost, including access to SLED's file relating to the underlying case as well as the file of the Lexington County Solicitor's office to the extent these files contain discoverable materials.



IT IS SO ORDERED, THIS THE 30 DAY OF Dec, 2010.



The Honorable R. Knox McMahon
Presiding Judge
Eleventh Judicial Circuit
Lexington, South Carolina 29072

STATE OF SOUTH CAROLINA
 COUNTY OF LEXINGTON
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NO: 2007CP3200907

Randall S Tyler vs. State Of South Carolina

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other:
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
- ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- ☐ Other: _____

IT IS ORDERED AND ADJUDGED:

☒ See attached order;

☐ Statement of Judgment by the Court:

Court Reporter:

PRESIDING JUDGE -

This judgment was entered on the n/a, and a copy mailed first class this 20th day of January, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Adrienne Turner
 Hedrick Gardner Kincheloe & Garofalo
 P.O. Box 11267
 Columbia, SC 29211

A West Lee
 Office Of The SC Attorney General
 P O Box 11549
 Columbia, SC 292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/lc

SCRPC APP-24/FORM 4

Beth A. Carrigg - Clerk of Court

ORIGINAL

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF LEXINGTON)

CASE NO.: 2007-CP-32-00907)

Randall S. Tyler #294029)**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff,)

vs.)

State of South Carolina)

Defendant.)

Plaintiff's Attorney:

West Lee, Bar No.

Address:

P.O. Box 11549

Columbia, SC 29211-1549

Phone: (803) 734-3970 Fax: (803) 734-4113

E-mail: Other:

Defendant's Attorney:

Adrienne L. Turner, Bar No. 006840

Address:

P.O. Box 11267

Columbia, SC 29211

Phone: (803) 727-1200 Fax: 803-727-1259

E-mail: aturner@hedrickgardner.com Other:

☐ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)☒ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)**SECTION I: Hearing Information**

Nature of Motion:

Estimated Time Needed:

Court Reporter Needed: ☐ YES/☐ NO**SECTION II: Motion/Order Type**☐ Written motion attached☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

Date submitted: 11/2/10

SECTION III: Motion Fee☐ PAID - AMOUNT: \$☒ EXEMPT:

(check reason)

ow Cause in Child or Spousal Support

Abuse or Abuse and Neglect

☐ Indigent Status☐ State Agency v. Indigent Party☐ Sexually Violent Predator Act☒ Post-Conviction Relief☐ Motion for Stay in Bankruptcy☐ Motion for Publication☐ Motion for Execution (Rule 69, SCRCP)☐ Proposed order submitted at request of the court; or,

reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

JUDGE'S SECTION☐ Motion Fee to be paid upon filing of the attached order.☐ Other:**JUDGE CODE**

Date:

CLERK'S VERIFICATION

Collected by: _____ Date Filed:

☐ MOTION FEE COLLECTED: \$☐ CONTESTED - AMOUNT DUE: \$

SCCA 233 (11/2003)



HEDRICK GARDNER

HEDRICK GARDNER KINCHELOE & GAROFALO LLP

ATTORNEYS AT LAW

CHARLOTTE • RALEIGH • WILMINGTON • COLUMBIA

NOV 04 513
ORIGINAL

November 2, 2010

The Honorable R. Knox McMahon
Lexington County Clerk of Court
205 E. Main Street
Lexington, SC 29072

Reply To:
ADRIANNE L. TURNER
Attorney
P.O. Box 11267
Columbia, SC 29211
Direct: (803) 727-1208
Fax: (803) 727-1259
E-Mail: aturner@hedrickgardner.com

RE: *Randall S. Tyler #294029 v. State of South Carolina*
Civil Action No: 2007-CP-32-00907
Claim No:
Our File No: 80-00292

Dear Judge McMahon:

Please find enclosed the original and one copy of a proposed Order of Continuance in the above-referenced matter. If the order meets with your approval, I would appreciate your executing and filing the original and returning a clocked copy to me in the self-addressed, postage pre-paid envelope that is enclosed for your convenience.

By copy of this letter, I am herewith serving a copy of the enclosed on counsel for the Defendant.

Sincerely,

Adrienne L. Turner

ALT/ejs
Enclosures
cc: West Lee

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

FILED CASE NO. 2007-CP-32-00907

Randall S. Tyler
PLAINTIFF(S)

2011 AUG 26 P ~~State~~ of South Carolina
DEFENDANT(S)

CHECK ONE:

DETH A. CARRIGG
CLERK OF COURT

- ☒ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

The case is continued to the next term of court, without objection from the Attorney General's office.

Dated at Lexington, South Carolina, this 26th day of August, 2011.

William P. Hendrix
PRESIDING JUDGE

This judgment was entered on the *N/A* day of *N/A*, 2011, and a copy mailed first class this *6th* day of *September*, 2011 to attorneys of record or to parties (when appearing pro se) as follows:

Adrianne L. Turner, Esquire
(803) 254-0707
ATTORNEY(S) FOR THE PLAINTIFF(S)

Kaelon May, Esquire
(803) 734-3727
ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Randall Tyler
SCDC# 294029
Lieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

Assistant Attorney General
Ms. Kaelon E. May
P.O. Box 11549
Columbia, SC. 29211

Att: Judge Young's Law Clerk
Judge Young
Lexington County Clerk of Court
139 E. Main St.
Lexington, SC. 29072-3494.

February 7, 2012

Adrienne Turner
Attorney At Law
P.O. Box 11844
Columbia, SC. 29211

RE: Request to reconvene and courtesy letter, in R. Tyler v.
State of South Carolina, C/A No.2007-CP-32-0907, to be forwarded
to Judge Young's Law Clerk.

Dear Ms. May,

Enclosed please find your copy of the request to reconvene
while the record is still open and courtesy letter concerning all
issues raised that I have forwarded to Judge Young's Law Clerk in
the above captioned.

enclosures:
as noted above

Kindest Regards

/s/

Randall Tyler

Petitioner,

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

C/A No.2007-CP-32-0907

Randall Tyler, Petitioner

-Vs-

State of South Carolina, Respondent,

CERTIFICATE OF SERVICE

The undersigned, Petitioner Randall Tyler hereby certifies has served true and correct copy of the enclosed:

- (1). Request to reconvene while the record is still open;
- (2). courtesy letter requesting a Rule 59(e), SCRCF motion be filed; in the event all issues are not addressed in any order.

to the Honorable Judge Young's Law Clerk, Lexington County Clerk of Court, Asst. Att. General Kaelon May, and Adrienne Turner, Esq. whose addresses appear below, this was done by placing the aforesaid documents in a properly addressed, first-class postage affixed envelope and placed in the U.S. mail this 7th day of February 2012.

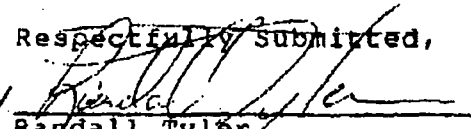
Judge Young's Law Clerk
Hon. Judge Young
Lexington County Courthouse
139 E. Main St.
Lexington, SC. 29072-3494

Office of Attorney General
Ms. Kaelon E. May
P.O. Box 11549
Columbia, SC. 29211

Adrienne Turner
Attorney at Law
P.O. Box 11844
Columbia, SC. 29211

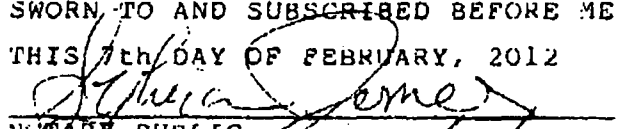
Respectfully Submitted,

/s/


Randall Tyler
Petitioner;

Lexington County
Clerk of Court
Ms. Beth Carrigg
139 E. Main St.
Lexington, SC. 2907203494

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 7th DAY OF FEBRUARY, 2012


NOTARY PUBLIC

My Commission Expires 1/22/2018

Randall Tyler
SCDC# 294029
Lieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

Assistant Attorney General
Ms. Kaelon E. May
P.O. Box 11549
Columbia, SC. 29211

Att: Judge Young's Law Clerk
Judge Young
Lexington County Clerk of Court
139 E. Main St.
Lexington, SC. 29072-3494.

Adrienne Turner
Attorney At Law
P.O. Box 11844
Columbia, SC. 29211

February 7, 2012

RE: Petitioner's request to reconvene to "authenticate" proffered
crime scene photos

Dear Judge Young's Law Clerk,

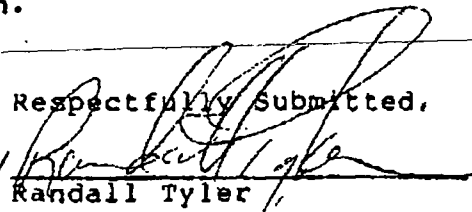
Please accept this as my formal request to move the Court to reconvene while to "the record is still open" to recall one witness Det. Vicki Hallman simply to "authenticate", as evidence the crime scene photos that were proffered by PCR counsel during the PCR hearing that was convened on February 1, 2012, C/A No.2007-CP-32-0907, due to the evidentiary value and support the crime scene photos carry since the crime scene photos if considered as evidence clearly refute State's exhibit 5 (crime scene video) and State's witness Donna Hutto's testimony with clear and convincing material facts, and that will support Petitioner's claims with evidentiary support rather than a mere proffer, as your Honor is aware proffered materials carry no evidentiary value or weight.

Neither party will be prejudiced thereby, since Vicki Hallman testified during the hearing and PCR counsel proffered the crime scene photos, all parties will not be surprised or prejudiced.

Therefore I respectfully ask this Honorable Court to reconvene while the record is still open.

enclosures:
all above captioned parties

Respectfully Submitted,

/s/ 
Randall Tyler
Petitioner,

Randall Tyler
 SCDC# 294029
 Lieber Corr. Inst.
 P.O. Box 205 EA-13
 136 Wilborn Ave.
 Ridgeville, SC. 29472

Assistant Attorney General
 Ms. Kaelon E. May
 P.O. Box 11549
 Columbia, SC. 29211

Att: Judge Young's Law Clerk
 Judge Young
 Lexington County Clerk of Court
 139 E. Main St.
 Lexington, SC. 29072-3494.

Adrianne Turner
 Attorney At Law
 P.O. Box 11844
 Columbia, SC. 29211

February 7, 2012

RE: Courtesy letter to address all issues presented
 C/A No.2007-CP-32-0907)(hearing convened 2/1/12)

TO: Judge Young's Law Clerk,
 Ms. Kaelon E. May
 Ms. Adrianne Turner

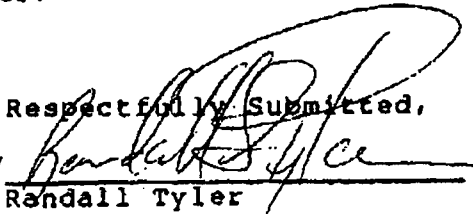
This is a courtesy letter to all above captioned parties reminding them I have a post trial motion (attached to amended PCR application p.27) to address all issues presented during the PCR hearing that was convened February 1, 2012 (C/A No.2007-CP-32-0907).

In the event that all issues presented are not addressed in any order issued I respectfully ask that a Rule 59(e), SCRCP motion be timely filed on my behalf.

I would also ask that a copy of any order issued be sent to me as soon as any order is issued.

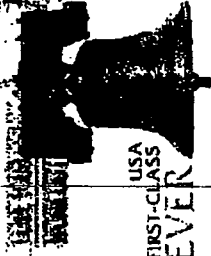
I thank you very kindly in this matter.

cc/file

Respectfully Submitted,
 /s/ 
 Randall Tyler
 Petitioner,

Randall Tyler
 SCDC# 294029
 Lieber Corr. Inst.
 P.O. Box 205 EA-13
 136 Wilborn Ave.
 Ridgeville, SC. 29472

CHARLESTON SC 294
 JNS FEB 08 12 PM 2:11



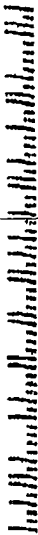
RECEIVED

Assistant Attorney General
 Ms. Kaelon E. May
 P.O. Box 11549
 Columbia, SC. 29211

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Legal Mail

28211+1549





ALAN WILSON
ATTORNEY GENERAL

February 14, 2012

Honorable Beth Carrigg
Clerk of Court, Lexington County
205 East Main Street, Suite 146
Lexington, SC 29072

FILED

RE: Randall Tyler, #294029 v. State of South Carolina
2007-CP-32-0907

Dear Ms. Carrigg:

I received the attached "Request to Reconvene" and "Request to file Rule 59(e)" dated February 7, 2012, in the aforementioned matter on February 9, 2012. Please be advised that Rule 11 of the South Carolina Rules of Civil Procedure requires every pleading, motion or other paper of a party represented by counsel to be signed by at least one attorney of record who is an active member of the South Carolina Bar. If a pleading, motion or other paper is not signed or does not comply with this Rule, "it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant." Rule 11, SCRPC.

Therefore, the State does not consider the requests and/or motions part of this action. By copy of this letter, I am notifying counsel of the State's position.

Sincerely,

Kaelon F. May
Assistant Attorney General

KEM/lp

cc: Adriann Turner, Esquire
Randall Tyler, #249029

Randall Tyler
 SCDC# 294029
 Lieber Corr. Inst.
 P.O. Box 205 EA-13
 136 Wilborn Ave.
 Ridgeville, SC. 29472

ORIGINAL

Honorable Beth Carrigg
 Clerk of Court, Lexington County
 205 East Main St, Suite 146
 Lexington, SC. 29072

Judge Young's Law Clerk
 Honorable Judge Young
 Lexington County Clerk of Court
 205 East Main St, Suite 146
 Lexington, SC. 29072-3494

Office of Attorney General
 Ms. Kaelon E. May
 P.O. Box 11549
 Columbia, SC. 29211

February 20, 2012

Adrienne Turner, Esq.
 Attorney at Law
 P.O. Box 11844
 Columbia, SC. 29211

FILED

2012 FEB 20 10:00

RE: Randall Tyler v. State of South Carolina
 C/A No.2007-CP-32-0907

Dear Ms. Carrigg,

I received the Attorney General's attached request to "strike" my request to reconvene while the record is still open pursuant to Rule 11, SCRPC.

Please take notice and disregard the request to strike my pleading as our Supreme Court said in Hiott v. State, 381 S.C. 622, 629 (2009), Rule 11 does [not] apply in PCR proceedings.

Also please find enclosed for additional filing in conjunction with my pending request to reconvene, please file the enclosed "underlying facts in support of my request to reconvene" while the record is still open.

I thank you very much for your time and consideration in this matter.

enclosures
 as noted

Kindest Regards

Randall Tyler

Petitioner,



ALAN WILSON
ATTORNEY GENERAL

February 14, 2012

Honorable Beth Carrigg
Clerk of Court, Lexington County
205 East Main Street, Suite 146
Lexington, SC 29072

RE: Randall Tyler, #294029 v. State of South Carolina
2007-CP-32-0907

Dear Ms. Carrigg:

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Therefore, the State does not consider the requests and/or motions part of this action. By copy of this letter, I am notifying counsel of the State's position.

Sincerely,

Kaelon E. May
Assistant Attorney General

KEM/lp

cc: Adrienne Turner, Esquire
Randall Tyler, #249029

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

C/A No. 2007-CP-32-0907

Randall Tyler -- Petitioner,

-Vs-

State of South Carolina -- Respondent,

CERTIFICATE OF SERVICE

The undersigned, Petitioner Randall Tyler hereby certifies he has served true and correct copies of the enclosed:

(1). Underlying facts in support of Petitioner's request to reconvene, with attachments to the persons whose addresses appear below by placing the aforesaid in properly addressed, first-class postage affixed envelopes and placed in the U.S. Mail this 20th day of February 2012.

Judge Young's Law Clerk
Honorable Judge Young
205 East Main St., Suite 146
Lexington, SC. 29072-3494

Hon. Beth Carrigg
Clerk of Court for Lexington County
205 East Main St., Suite 146
Lexington, SC. 29072

Office of Attorney General
Ms. Kaelon E. May
P.O. Box 11549
Columbia, SC. 29211

Adrianne Turner, Esq.
Attorney at Law
P.O. Box 11844
Columbia, SC. 29211

Respectfully Submitted,

[Signature]
1st Randall Tyler
SCDC# 294029
Lieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

SWORN TO AND SUBSCRIBED BEFORE ME

This 21st day of February, 2012

[Signature]
NOTARY PUBLIC

My Comm. Expires 1/24/2015

UNDERLYING FACTS IN SUPPORT OF PETITIONER'S
REQUEST TO RECONVENE WHILE THE RECORD IS STILL OPEN

During the PCR hearing convened February 1, 2012, Petitioner's counsel through Detective Vicki Hallman attempted to authenticate some of the 200 crime scene photos taken by Hallman (see attached discovery work sheet) during the investigation of the underlying offense. While Hallman testified she did not know if the crime scene photo proffered by counsel were actual copies of the crime scene photos taken by Hallman. She did not deny they were either. What this Honorable Court was not informed of during the PCR hearing was December 30, 2010 the Honorable Judge Knox McMann issued an order granting post conviction discovery to obtain the 200 crime photos from the Lexington County Sheriff's Department (attached).

Therefore, since the burden of proof is on the applicant in a PCR setting, Rule 71.1(e), SCRPC, to establish his entitlement to the relief requested by the preponderance of the evidence, it is imperative that Petitioner respectfully requests to reconvene while the record is still open to authenticate the proffered crime scene photos as evidence and to give testimony in support of what the proffered photos actually depict, since the proffered photos, when considered as evidence, refute State's witness Donna Hutto's testimony and State's exhibit 5, crime scene video with clear and convincing material facts that go to credibility, guilt and innocence.

This Honorable Court enjoys discretion to take judicial notice of the facts and records before it and to consider additional evidence as the Court deems just and as Petitioner has alleged the underlying inappropriate actions by the State in an unjust manipulation of the evidence that was deliberately placed before the jury during Petitioner's trial and can therefore order all 200 of the crime scene photos to be provided to the Court. The pictures will show one of which, Petitioner testified during PCR that Detective Luke Fossum took a picture of Petitioner and his hands at the Lexington County Detention Center the day Petitioner was arrested that reveals injuries on the side of Petitioner's knuckles and finger print ink on Petitioner's hands from being booked in. Secondly, Petitioner testified during PCR that Vicki Hallman came to the Lexington County Detention Center 10 days later on July 23, 2001 and took pictures of Petitioner and his hands which reveals no injuries or booking ink. This Court has before it (2) two different pictures of Petitioner's hands, [both] of which were admitted during PCR, but this Court did not allow the second picture of Petitioner himself, to come in since the photo could not be authenticated. Petitioner testified during PCR that the Prosecution "switched" the pictures of Petitioner's hands during trial and that Hallman gave false testimony during trial regarding the photos, as elicited by the Prosecution, and would support Petitioner's prosecutorial misconduct claim, which the State did not deny or attempt to refute during the PCR hearing. Clearly if this Honorable Court

orders the complete set of 200 crime scene photos to be brought before it there will undoubtedly be (2) two different pictures of Petitioner and his hands that the State cannot explain away.

Thirdly, the proffered crime scene photos refute the State's evidence and Donna Hutto's testimony, and are corroborated by Petitioner and Vicki Hallman's testimony of the atmosphere the night of the incident, i.e. one of the proffered crime scene photos show the house from the "front" with the "door closed" and the "lights on". That photo as well as the crime scene video were taken [after] the fact, since when comparing them to the other proffered photos that reveal it was dark out there that night, and it is elementary that one could not video tape or take pictures in the "dark" so artificial lighting was undoubtedly used. But, it is imperative to note that the proffered crime scene photo taken from "inside" the house looking out into the "front yard", and the victim is laying by the door is consistent with Vicki Hallman's testimony in that Hallman testified during trial "Actually when I pulled up on the scene and looked at the home I could see the victim laying in front of the door because his body was at the front door [Tr.p.94, L.1-4]; Swarat asked her again, "You say from the outside looking in, the victim's body was visibly?", and Hallman said "Yes". [Tr.p.94, L.17-18]. Now, looking at that proffered photo it is dark outside just as Petitioner testified during trial and the State was allowed to successfully argue against Petitioner's credibility before the jury with the crime scene video. One of the other proffered photos was taken from inside the garage looking into the

backyard, the very door that is at the bottom of the steps where Hutto testified she saw Petitioner standing, and the State used a photo that was taken during "the day". Only the proffered photo clearly shows it is "dark" looking out into the back yard as no lights were on just as Petitioner testified during trial.

During trial Petitioner testified that it was dark out there that night as the porch lights and yard lights were [off] that night and that was a little strange [Tr.p.265, L.19-25]. On cross-examination the prosecution told the jury they could look at the crime scene video and see what it was like out there to decide whether Petitioner was lying [Tr.p.303, L.9-18]. Again one could not video in the dark and the State clearly used artificial lighting, but the proffered crime scene photos refute the State's evidence that was misrepresented to the jury.

The other proffered crime scene photo shows the house from the outside looking back toward the garage and there is an "octangular" window on the side of the house, which is the pool room, keeping mind the State used artificial light to take the picture outside. Then when comparing that photo to the photo taken from inside the house looking into the pool room, on the farthest wall there is that same "octangular" window, and it is clearly visible the window shows it is "dark" outside and no lights just light Petitioner testified to during trial.

Trial counsel testified during PCR that he had all the police reports from the Sheriff's Department, which included the 200
crime scene photos, so counsel could have easily refuted the

State's crime scene video and Donna Hutto's testimony with clear and convincing facts and prevented the State's unjust manipulation of the evidence before the jury. The failure resulted in ineffective assistance of counsel and prosecutorial misconduct.

It would be fundamentally unfair for the State to use 5 or 6 of the 200 crime scene photos and the crime scene video to create an illusion before the jury that misrepresented the facts, and then to deny Petitioner the right to take photos from those same 200 crime photos and present them during PCR to refute the State's evidence would result in a miscarriage of justice.

Every South Carolinian has a vital interest in the administration of justice. This Court has the ultimate responsibility for maintaining judicial integrity and high standards of professional conduct among members of the bar, and for protecting the rights of the accused. The integrity of the entire judicial system is called into question by conduct such as that engaged by the solicitor and investigating officers in this case.

It is therefore in the interest of justice that Petitioner respectfully asks this Court to order the 200 crime scene photos be brought before it and to reconvene while the record is still open to authenticate and allow testimony in support to depict what the photos actually are, including the two (2) sets of photos of Petitioner that cannot be explained away.

Petitioner respectfully prays this Court will reconvene while the record is still open.

Respectfully Submitted,

/s/

Randall Tyler

2-21-12

COPY

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS
) FOR THE ELEVENTH JUDICIAL CIRCUIT

COUNTY OF LEXINGTON

) Case No.: 2007-CP-32-0907

Randall S. Tyler

Applicant

) ORDER OF CONTINUANCE

vs.

State of South Carolina

Respondent

BETH A. CARRIGS
CLERK OF COURT
LEXINGTON, SC

2011 JAN -5 P 4:00

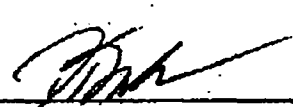
FILED

THIS MATTER IS BEFORE THE COURT by way of a post-conviction relief application filed March 16, 2007. An evidentiary hearing was convened on Friday, September 17, 2010. The applicant was present at the time of the hearing and represented by Adrienne L. Turner, Esquire. West Lee of the South Carolina Attorney General's office represented the Respondent. The applicant's attorney moved for a continuance in the matter and also moved to be granted leave to conduct discovery in the case without cost, specifically requesting access to the applicant's original SLED file in its entirety as well as the Solicitor's file. Good cause being shown, this Court grants a continuance in the matter. Furthermore, this Court finds that the applicant's request to proceed with discovery without costs is reasonable and necessary.

IT IS THEREFORE ORDERED THAT:

1. The post-conviction relief hearing is CONTINUED to the next suitable term of post-conviction relief court occurring at least ninety days after the date of this order so as to provide the applicant's attorney an opportunity to conduct discovery.
2. Applicant's PCR Counsel is hereby granted leave to conduct discovery without cost, including access to SLED's file relating to the underlying case as well as the file of the Lexington County Solicitor's office to the extent these files contain discoverable materials.

IT IS SO ORDERED, THIS THE 30 DAY OF Dec, 2010.



The Honorable R. Knox McMahon
Presiding Judge
Eleventh Judicial Circuit
Lexington, South Carolina 29072

State of South Carolina
Office of the Solicitor
Eleventh Judicial Circuit

COUNTIES
EDGEFIELD / LEXINGTON
McCORMICK / SALUDA
FAXES: (803) 359-8431 or (803) 359-8255



LEXINGTON COUNTY COURTHOUSE ANNEX
105 SOUTH LAKE DRIVE
LEXINGTON, SOUTH CAROLINA 29072-3490
TELEPHONE: (803) 359-8352

DONALD V. MYERS
Solicitor

June 2, 2003

Dennis Bolt, Esquire
Post Office Box 137
Columbia, SC 29202

VIA FACSIMILE - 256-7399
(Hard copy to follow by mail)

Re: State v. Randy Tyler

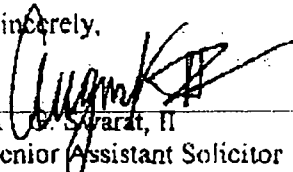
Dear Mr. Bolt:

As we are soon approaching the trial date on Mr. Tyler's case, I wanted to give you the opportunity to view the copies of the photographs, crime scene videotape and other potential items of evidence, which I have in my possession. Also, I would like to go through the documentation in this case to make sure you have been provided with all materials under Brady v. Maryland and Rule 5. The items collected by law enforcement are in the possession of the Sheriff's Department.

In addition, the Grand Jury will be presented with amended indictments and an additional indictment for criminal conspiracy on Thursday, June 5, 2003. I was unaware of Mr. Tyler's prior burglary convictions until I received the certified convictions from the State of Michigan. After reviewing those convictions, I have amended his burglary first indictment to include his prior burglary convictions as an element of burglary in the first degree.

If you have any questions or would like to schedule a time to view the discovery items mentioned above, please contact me at 359-8596.

Sincerely,


A. M. Searat, II
Senior Assistant Solicitor

AGS/tkg

CRIME SCENE REPORT
LEXINGTON COUNTY SHERIFFS DEPARTMENT
IDENTIFICATION DIVISION

CASE #: 0252729

OFFENSE: Death/ Homicide

REGION: South

VICTIM: Robert Lewis

LOCATION: 1839 Savannah Highway

- a dresser drawer with what appeared to be items belonging to the victim was on the bed in the master bedroom, the left knob was missing from the drawer, no latents were located
- victim had a large amount of blood around the head
- a small piece of unknown type tissue was located on the wall near the entrance to the master bedroom
- a gunshot residue kit was completed on Donna Marie Hutto and on John Marshall Hutto
- the computer tower, Gateway, was taken as evidence from the office
- the two bloody shoe prints were photographed, and the pieces of carpet were taken as evidence
- crime scene video was completed
- approximately 200 photos were taken of the scene
- sketch was completed of the house
- gunshot wound was located on the victim's left buttock area
- blood drops were located on the top of the overturned coffee table
- possible signs of a struggle in the garage area
- shell casings are 40 caliber S&W Triton
- outside footwear photographs were completed by Sgt. Collins
- turn around tire tracks were located on Savannah Highway toward Swansea from the I/L and were photographed with B&W film
- three blood drops were located on the floor in the hallway between the front door and the spare bedroom, marked as G & H, three swabs were collected
- blood was located on the floor of the garage near work tables beside the trailer, swab was taken
- blood was also located on a white box which was in the trailer, swab was taken
- a blue flowered hat, identified as belonging to the victim was located on the floor of the garage and taken as evidence
- a pair of glasses were located on the floor of the garage
- a blue baseball hat and a black t-shirt were located on the floor of the living room in front of the chair near the entrance to the pool room and taken as evidence
- the following is the items taken as evidence:
 - 1-shell casing just inside the living room closest to the body
 - 2-shell casing behind small table near item 1
 - 3-shell casing from the chair at the entrance to the pool room
 - 4-overturned bar stool
 - 5-pool stick
 - 6-green glass located in the garage
 - 7-upright bar stool
 - 8-one black in color t-shirt
 - 9-one blue baseball cap
 - 10-one spent round located in the vent behind the loveseat
 - 11-one spent round located in the left arm of the couch cushion
 - 12-one crime scene video
 - 13-one GSR kit on Donna Hutto
 - 14-one GSR kit for John Hutto
 - 15-one piece of blue carpet with bloody shoe print, marked in photos as A
 - 16-one piece of blue carpet with bloody shoe print, marked in photos as B

SEP.03.02

089

CONFERRED WITH DETECTIVE/ REQUESTING OFFICER: Sgt. Collins

TIME: 0800

REPORTING OFFICER: Vicki Hallman

DATE: 7/14/02

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED

IN THE COURT OF COMMON PLEAS
OF THE ELEVENTH JUDICIAL CIRCUIT

Randall Scott Tyler,

2012 FEB 16 A 9:46
Petitioner,

Case Number: 2007-CP-32-00907

vs.

THE STATE OF SOUTH CAROLINA
CLERK OF COURT
LEXINGTON, SC

**NOTICE OF MOTION AND MOTION
TO AMEND PLEADINGS AND FOR
RECONSIDERATION OF
EVIDENTIARY RULING AS TO
ADMISSIBILITY OF PROFFERED
PHOTOGRAPHS**

The State of South Carolina

Defendant.

TO: KALEON E. MAY, ESQUIRE, ATTORNEY FOR DEFENDANT

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 15, SCRCP, Petitioner, by and through his undersigned counsel, hereby moves for an order amending Petitioner's Application for Post Conviction Relief (PCR) to specifically assert that Petitioner's trial counsel rendered ineffective assistance of counsel in failing to object to, and in fact actually *eliciting* trial testimony of prior crimes, wrongs and/or bad acts for which the Petitioner was not on trial and with which the Petitioner had not been charged. Specifically, Petitioner's trial counsel injected Petitioner's involvement with drugs through cross-examination of State's witness Donna Hutto (Tr. 187), and effectively injected or "opened the door" to the State's theory of robbery through trial counsel's own direct examination of Petitioner (Tr. 259 L. 24-25). Trial counsel's failure to render effective assistance of counsel in this regard was particularly egregious and highly prejudicial inasmuch as trial counsel effectively articulated motive and intent for Petitioner to have harmed the victim through introduction of unadjudicated offenses. Further compounding the prejudicial effect of trial counsel's ineffective assistance in this respect, counsel also failed to object to the State's mischaracterization during closing arguments of the testimony of James Williams, to include allegations that Petitioner indicated to Williams that he was angry with the

victim over drugs despite the fact that Williams never offered such testimony. As well, trial counsel failed to object to, or seek clarification of, the trial court's jury charge on prior bad acts, which failure allowed the jury to consider the aforementioned uncharged acts as evidence of motive and intent to commit murder.

FILED
2017 FEB 16 A 9:47
KATHA CARRIGG
CLERK OF COURT
LEXINGTON SC

Petitioner asserts, in support of his Motion to Amend the Pleadings, that the requested amendment both brings the Pleadings into conformity with the evidence offered at the hearing on this matter and relates back to the matters occurring at his criminal trial and set forth in his original and amended PCR application.

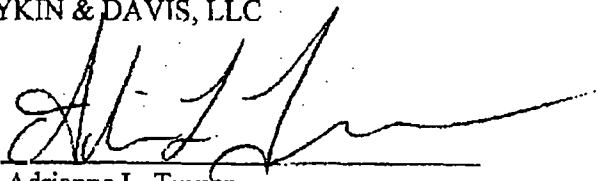
Petitioner further respectfully moves this Court, pursuant to Rule 59(e), SCRPC, to reconsider the court's ruling from the bench that certain photographs, offered by Petitioner as crime scene photos, were inadmissible because they could not be authenticated. At the hearing on this matter, Petitioner called Vikki Hallman to testify as to the authenticity of the crime scene photos. Both at the hearing on Petitioner's PCR application, and during the underlying trial, Vikki Hallman testified she worked for the sheriff's department during the relevant time period and that she took pictures of the crime scene. Although Ms. Hallman testified she could not recall whether the specific photographs Petitioner offered into evidence were among the 200 photographs she took of the crime scene in 2002, she did not deny that the pictures offered into evidence were in fact copies of the crime scene photographs. In any event, Petitioner would assert that because the photographs were obtained by Petitioner's counsel from the Lexington County Sheriff's Department pursuant to the December 30, 2010 order of Judge Knox McMahon allowing discovery in this PCR action, the photographs should be deemed authenticated due to the process by which they were obtained. Alternatively, Petitioner would respectfully request that the Court order copies of all the crime scene photographs to be provided to the Court

directly from the Lexington County Sheriff Department's file, such that the proffered photographs can be authenticated by direct comparison to photographs whose authenticity is not in question.

For all of the foregoing reasons, Petitioner's Motions to Amend the Pleadings and to Reconsider Ruling Excluding Proffered Photographs should be granted.

Respectfully submitted,

BOYKIN & DAVIS, LLC

By: 

Adrienne L. Turner

P.O. Box 11844

Columbia, SC 29211

Telephone: (803) 254-0707

Facsimile: (803) 254-5609

Attorney for Petitioner

February 16, 2012
Lexington, South Carolina

CEITH A. CARRIGS
CLERK OF COURT
LEXINGTON SC

2012 FEB 16 A 9 47

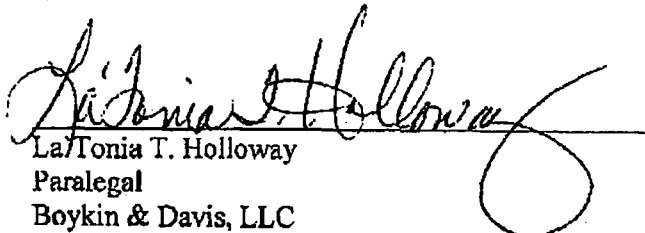
FILED

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing, Motion, has been served upon the following parties by placing a copy of the same in the United States mail, first class postage prepaid, addressed to their office as shown below this 16th day of February, 2012.

Kaelon E. May, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Randall S. Tyler SCDC # 294029
Lieber Correctional Institution
P.O. Box 205 FA-13
136 Wilborn Ave.
Ridgeville, SC 29472


LaTonia T. Holloway
Paralegal
Boykin & Davis, LLC
220 Stoneridge Drive, Suite 100
P.O. Box 11844 (29211)
Columbia, SC 29210

SETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

2012 FEB 16 A 9 47

FILED

Randall Tyler
 SCDC# 294029
 Lieber Corr. Inst.
 P.O. Box 205 EA-13
 136 Wilborn Ave.
 Ridgeville, SC. 29472

ORIGINAL

Honorable Beth Carrigg
 Clerk of Court, Lexington County
 205 East Main St, Suite 146
 Lexington, SC. 29072

Judge Young's Law Clerk
 Honorable Judge Young
 Lexington County Clerk of Court
 205 East Main St, Suite 146
 Lexington, SC. 29072-3494

Office of Attorney General
 Ms. Kaelon E. May
 P.O. Box 11549
 Columbia, SC. 29211

February 20, 2012

Adrianne Turner, Esq.
 Attorney at Law
 P.O. Box 11844
 Columbia, SC. 29211

FILED

2012 FEB 20 11:00

RE: Randall Tyler v. State of South Carolina
 C/A No.2007-CP-32-0907

Dear Ms. Carrigg,

I received the Attorney General's attached request to "strike" my request to reconvene while the record is still open pursuant to Rule 11, SCRCP.

Please take notice and disregard the request to strike my pleading as our Supreme Court said in Hiott v. State, 381 S.C. 622, 629 (2009), Rule 11 does [not] apply in PCR proceedings.

Also please find enclosed for additional filing in conjunction with my pending request to reconvene, please file the enclosed "underlying facts in support of my request to reconvene" while the record is still open.

I thank you very much for your time and consideration in this matter.

enclosures
 as noted

Kindest Regards,

Randall Tyler

Petitioner,

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

ELEVENTH JUDICIAL CIRCUIT

CLERK OF COURT
LEXINGTON, SC

No. 2007-CP-32-0907

Randall Tyler

Petitioner,

-V-

State of South Carolina

Defendant,

) NOTICE OF MOTION AND MOTION TO
) AMEND THE PLEADINGS TO CONFORM TO
) EVIDENCE TO INCLUDE THE SLED AND
) POLICE REPORTS THAT WERE MISPLACED
) DURING THE PCR HEARING

TO: Ms. Kaleon E. May, Esquire, Attorney for Defendant

YOU WILL PLEASE TAKE NOTICE, the pursuant to Rule 15, SCRPC, Petitioner hereby moves this Honorable Court for an order amending to conform to the evidence offered during the PCR hearing, to include SLED and Police Reports that Petitioner testified to and from during the PCR hearing, but due to the large amount of documentary evidence was presented during the hearing the attached SLED and Police Reports were misplaced and/or overlooked during housekeeping matters.

The attached SLED and Police Reports do not add new or additional evidence to be considered, but merely to include and incorporate by reference evidence that was testified to and from during the hearing and was misplaced during housekeeping matters. The attached SLED and Police Reports were testified to and in

support of Petitioner's ineffective assistance of counsel claims for failure to investigate, i.e. Petitioner testified during the hearing that "the reason for the second and third interviews with Donna Hutto and Johnny Hutto was two-fold since the time-line did not jive as it should have with the CAD Report and 911 call", and further that Petitioner had obtained the files from SLED himself through correspondence with SLED.

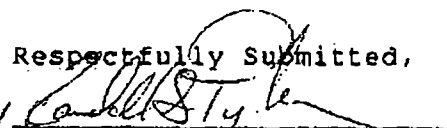
Neither party will be prejudiced thereby, as Petitioner gave direct testimony in support to the attached SLED and Police Reports during the PCR hearing to and from the SLED and Police Reports in support of Petitioner's claims.

For all the foregoing reasons, Petitioner motion to amend and include the attached documents as evidence in support should be granted.

Submitted March 19, 2012
Ridgeville, SC.

Respectfully Submitted,

/s/


Randall Tylet
SCDC# 294029
Lieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

FILED
CLERK OF COURT
LEXINGTON, SC
MAR 25 P 3 30
PPB

Sept. 7, 2004

2004-560

Michael J. Brown Lieutenant
 Supervisory Special Agent
 S-L-E-B.
 P.O. BOX 21398
 Columbia, S.C. 29221-1398

Rec'd
 9/10/04
 Dist
 9/30/04

RE: Case file pertaining to Randall Scott Tyler

Dear Michael J. Brown,

I am writing in request of my case file pertaining to warrant numbers (H-125792) and (H-128821).

I was arrested on July 14, 2002 on the charges of murder and burglary 1st in Lexington County, and I was indicted on June 5, 2003. The indictment numbers are (2003-GS-32-2266) and (2003-GS-32-2265).

At this time would like to ask for your assistance in obtaining a copy of my case file, to include any and all pictures developed or undeveloped, as well as any and all police reports, statements and documents.

I understand that there will be a fee and if you could let me know how much monies this will take and supply me with the information on how and where to send it. I will make the necessary arrangements.

I thank you very much for your time and consideration in this matter and I look forward to hearing from you at your earliest convenience.

Respectfully,

Randall S. Tyler

Randall S. Tyler #294029

Evans Corr. Inst. P-I-A-15B

610 Highway 9 West

Bennettsville, SC 29512

LOC-8714

Arson Fire
 DNA Lat
 Drug Proe
 cc/file ToF
 Trace

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

September 21, 2004

Mr. Randall S. Tyler, #294029
Evans C. I. / F-1-A-168
610 Highway 9 West
Bennettsville, SC 29512

Dear Mr. Tyler:

In order to adequately search our database, I will need the following additional information:

NAME OF VICTIM(S)

Once the above information is received, we will search our database and advise you of our findings.

Sincerely,

M. J. Brown

Michael J. Brown, Lieutenant
Supervisory Special Agent
FOIA/Subpoena Compliance Coordinator

MJB/mcp/FOI#2004-560



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MICHAEL J. BROWN

SUPERVISORY SPECIAL AGENT

FOIA/SUBPOENA COMPLIANCE COORDINATOR

*Rec'd
10/17/04
Done
10/27/04*

OCTOBER 6, 2004

Dear Mr. Brown,

I am in receipt of your letter and I thank you very much for time.

In your letter you stated that you needed the name of the (VICTIM) in my case before you could process my request for the information I requested.

The victim's name was (Robert Clyde Lewis), his address at the time of the incident was (1839 Savannah highway, Swansea, South Carolina.

I thank you very much for your time and help in this matter.

Respectfully,



Randall Scott Tyler #294029

Evans Corr. Inst. F-1-A-168

610 Highway 9 West

Bennettsville, South Carolina

29512

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

December 11, 2004

Mr. Randall Scott Tyler, #294029
Evans C. I. / F-1-A-168
610 Highway 9 West
Bennettsville, SC 29512

RE: SLED LAB NO: L02-8714

Dear Mr. Tyler:

I have completed my review of your file. Listed below are the charges associated with this request.

197 pages @ \$.25 per page of copy	- \$ 49.25
Research and/or copying time	- <u>15.00</u>
TOTAL	- \$ 64.25

Please remit payment to the State Law Enforcement Division, and address the envelope to Lt. Mike Brown, SLED Public Information Office, P. O. Box 21398, Columbia, SC 29221-1398. After receipt of the money order, the information will be forwarded to you.

Sincerely,

M. J. Brown / mcp

Michael J. Brown, Lieutenant
Supervisory Special Agent
FOIA / Subpoena Compliance Coordinator

MJB/mcp/FOI#2004-560



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

July 19, 2005

Mr. Randall Scott Tyler, #294029
Lieber C. I. / E-A-30
P. O. Box 205
Ridgeville, SC 29472

RE: SLED LAB #: 102-8714 (Arson, DNA, Drug ID, Firearms,
Latent Prints, Processing, Toxicology & Trace Depts.)

Dear Mr. Tyler:

I am in receipt of your letter dated July 7, 2005, and attached money order in the amount of \$64.25. Please find enclosed the information available to you under the Freedom of Information Act concerning the above referenced case.

Sincerely,

M. J. Brown / mcp

Michael J. Brown, Lieutenant
Supervisory Special Agent
FOIA/Subpoena Compliance Coordinator

MJB/mcp/FOI#2004-560



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

October 14, 2004

To: Tammy Rawl
From: Lieutenant C. Todd Hughey *CTH*
RE: FOI 2004-560 (L02-08714)

FOI Request 2004-560 was received on L02-08714 requesting a copy of the completed case report. Upon review of the case file, it was determined that no analysis of the evidence submitted in this case was performed. The evidence in question was returned by request to the Lexington County Sheriff's Office unanalyzed. This department issued no Drug Analysis Report on the case in question. Therefore, no such requested document exists.

CTH



AGENCY I.D.
 SC0320000

LEXINGTON COUNTY SHERIFF'S OFFICE

0252728 CASE NUMBER

INVESTIGATIVE REPORT

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

PAGE 1 of 7 PAGES

ORIGINAL COMPLAINANT ☐ OR VICTIM ☒	
NAME: Lewis, Robert	DATE OF BIRTH:
STREET ADDRESS: 1539 Savannah Highway	RACE: W SEX: M
CITY - STATE - ZIP: Swansea, SC 29160	AGE: 37
INCIDENT TYPE: Death under investigation (Homicide)	
ORIGINAL SUSPECT:	
NAME: Tyler, Randall Scott	5'9", 160 pounds
STREET ADDRESS: 3011 Bluff Road	Gray Hair, Blue Eyes
CITY - STATE - ZIP: Gadsden, SC 29052	ESN: 365-82-9857
	DATE OF BIRTH: 01/14/67
	RACE: W SEX: M
	AGE: 35

RECOVERED PROPERTY DOLLAR AMOUNT: \$

CANCEL NCIC ENTRY: YES NO

On behalf of Detective Scottie Frier I/O conducted a secondary interview with Donna Marie Hutto, 41 year old white female, who is the common law spouse of the deceased victim. This interview was conducted at the Lexington County Sheriff's Department in an interview room. The reason for the second interview was two-fold. It was thought that the time line that was outlined in the initial interview was incorrect. It should have been with the CAD report and the 911 call that came in at 0028.

I/O sat down with Ms. Donna Marie Hutto and explained to her the importance of getting the time line right to allow law enforcement to ascertain exactly what happened. In the notes that I/O took from that interview a closer scenario of what happened was gleaned, time wise. After talking with Ms. Hutto, it was determined that she had left the incident location at about 11:30 and had gone and gotten something to eat. She brought the food back and had, after eating, laid down on the couch at about 10:15 and fell asleep. She stated that she felt like she was awoken somewhere between 11 and 11:15. Because the dog was barking, running around in the living room and jumping on her, and when she woke up she said that was approximately 11:15 she heard through the back door, which was open, arguing in the shop. She stated at first she couldn't understand what they were arguing about, but she could tell that people were angry. She went to the kitchen and looked out the window and saw Randy. She stated that she recognized Randy by his voice and his build and that she had had a

SEP0302 161

she then went to the bathroom and again looked out that window and while she was looking out that window, she actually heard Corky use Randy's name. While she was telling I/O what happened, she stated that she was freaking out because she could tell by Corky's voice that he was afraid and she said that that made her afraid and that she was afraid that Randy was going to kill both of them. I/O asked her why he would kill both of them and she said because of dope and money and because she had heard Randy in the past talking tough about what he would do with people who double crossed him or got in his way. As she tried to listen to this argument from the house, she heard Randy say, "let's go in the house", to which Corky responded "we don't have to go into the house".

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
YES ☒ NO ☐	YES ☒ NO ☐	YES ☒ NO ☐	YES ☒ NO ☐	☐ UNFOUNDED	☒ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTION 3 ☐ VICTIM/WITNESS DECLINES COOPERATION 4 ☐ EXTRADITION DENIED 5 ☐ JUVENILE, NO ARREST						
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
QUIG, DET. J.E.	07-19-02	309		7:30	309	
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	

AGENCY I.D.
SC0320000

LEXINGTON COUNTY SHERIFF'S OFFICE

0252729 CASE NUMBER 547

INVESTIGATIVE REPORT

☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	PAGE 1 of 2 PAGE

ORIGINAL COMPLAINANT ☐ OR VICTIM ☒	
NAME: Lewis, Robert	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:
INCIDENT TYPE:	
ORIGINAL SUSPECT:	
NAME: Tyler, Randall	DATE OF BIRTH: 01/14/67
STREET ADDRESS:	SSN: 365-82-9857
CITY - STATE - ZIP:	RACE: W SEX: M
AGE:	

RECOVERED PROPERTY DOLLAR AMOUNT: \$

CANCEL NCIC ENTRY: YES NO

Suspect #2: Harsay, Travis W/M 05/07/76 SSN: 453-61-5649

In reviewing the CAD report and the statements provided by Johnny Hutto and Donna Hutto, R/O, along with Detective Joe Quig, noticed a discrepancy in information that had been provided in the call to Dispatch and the statements provided by both Johnny and Donna Hutto. This discrepancy was that according to the statements they had provided, when he and his sister arrived they called 911 and then drove to the house. However, in reviewing the 911 call, Hutto clearly states that the subject is laying on the floor and refers to the subject as the boyfriend of his sister and states that a Randy subject was in the house with him.

Because of this discrepancy, Johnny Hutto and Donna Hutto were contacted and asked to come back to the Lexington County Sheriff's Department. Upon arrival Donna Hutto was questioned again by Detective Joe Quig. Details of that interview are included in Quig's supplemental report. The question of the time line is answered in that Donna Hutto had tried to cover for Johnny Hutto because he had armed himself with a pistol, which would be in violation of his status in that he has twice been convicted of ~~armed robbery~~. She had driven to the home to see exactly what had happened and then returned. Donna had not mentioned this out of trying to protect her brother from being in trouble. Donna also provided to Detective Quig, a very descriptive and detailed time line of the night's events, which Detective Quig describes in great detail in his report.

R/O also interviewed Johnny Hutto again and took a detailed statement. He was advised of his rights under the Miranda decision. It was explained to Hutto that this statement was being taken from him because of the fact that it was revealed that he had ~~been arrested for armed robbery~~. Hutto waived all his rights and provided a detailed two page statement. That statement reads as follows:

SEP 6302 135

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
YES ☐	NO ☐	YES ☐	NO ☐	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRAJURISDICTION DENIED 5. ☐ JUVENILE, NO ARREST						
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
FRIER, SCOTTIE	07-29-02	306				
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	

LEXINGTON COUNTY SHERIFF'S OFFICE

AGENCY I.D.
SC0320000

0252729 CASE NUMBER

INVESTIGATIVE REPORT

☐ ORIGINAL
REPORT☒ SUPPLEMENTAL
REPORT☐ ADDITIONAL
VICTIMS☐ ADDITIONAL
STOLEN PROPERTY☐ STATUS
CHANGE☐ ADDITIONAL
OFFENDERS☐ ADDITIONAL
RECOVERED PROPERTYPAGE 2 of 2 PAGEORIGINAL COMPLAINANT ☐ OR VICTIM ☒NAME: Lewis, Robert

DATE OF BIRTH:

STREET ADDRESS:

RACE:

SEX:

CITY - STATE - ZIP:

AGE:

INCIDENT TYPE:

ORIGINAL SUSPECT:

NAME: Tyler, RandallDATE OF BIRTH: 01/14/67

STREET ADDRESS:

SSN: 365-82-9857

RACE:

SEX:

CITY - STATE - ZIP:

AGE:

RECOVERED PROPERTY DOLLAR AMOUNT: \$

CANCEL NCIC ENTRY: YES ☐ NO ☐

I did not tell some facts about what took place after Donna came to my home on Saturday night. When she got there, Donna showed up "freaking out". She said "Randy was at the house and it was bad. She they were fighting". She was afraid that Randy was going to hurt her and Corky because he kept wanting to come into the house. I asked Donna "Randy, who?". She said "Gray haired Randy".

I then took a snub nosed pistol from my house. Corky had given me the gun to hold for him. I know I am not allowed to have a gun. I am also under suspension on my drivers license. I told Donna and my wife to stay there. I then took the pistol and drove to Corky's house. I saw Corky on the floor at the front door. "The dog" would bark at me. I then drove back to my house. Donna and my wife had left. I tried to call back to Corky's, afraid they had tried to go back there. They drove back up and I called 911. I did not tell the police this because I knew I could not possess a pistol and drive that car. When I walked away from the house when I saw him on the floor, I screamed out "fuck you, Randy". Because I saw Randy on the floor, I knew he was dead. This statement is signed by Johnny Hutto and R/O.

These additional statements of Donna and Johnny Hutto are included in the case file.

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SUBJECT IDENTIFIED

SUBJECT LOCATED

YES ☐NO ☐YES ☐NO ☐☐ ACTIVE☐ ARRESTED UNDER 18☐ EX-CLEAR UNDER 18☐ UNFURNISHED☐ ADMIRALTY CLOSED☐ ARRESTED 18 AND OVER☐ EX-CLEAR 18 AND OVERREASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/INMATES DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST

REPORTING OFFICER

DATE

UNIT NUMBER

APPROVING OFFICER

DATE

UNIT NUMBER

PRIER, SCOTTIE

07-29-02

305

REPORTING OFFICER

DATE

UNIT NUMBER

APPROVING OFFICER

DATE

UNIT NUMBER

AGENCY I.D.
SC0320000

LEXINGTON COUNTY SHERIFF'S OFFICE

CASE NUMBER 549
0252729

INVESTIGATIVE REPORT

☐ ORIGINAL REPORT ☒ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ STATUS CHANGE ☐ ADDITIONAL OFFENSES ☐ ADDITIONAL RECOVERED PROPERTY

PAGE 6 of 11 PAGE

ORIGINAL COMPLAINANT ☐ OR VICTIM ☒

NAME: Lewis, Robert DATE OF BIRTH: _____
STREET ADDRESS: _____ RACE: _____ SEX: _____
CITY, STATE, ZIP: _____ AGE: _____
INCIDENT TYPE: _____
ORIGINAL SUSPECT:
NAME: Tyler, Randall DATE OF BIRTH: 01/14/67
STREET ADDRESS: _____ SSN: 365-82-9857 RACE: W SEX: M
CITY, STATE, ZIP: _____ AGE: _____
Suspect #2: Harsey, Travis W/M 05/07/76 SSN: 453-61-5649
RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____

CANCEL NCIC ENTRY: YES NO

Harsey was then transported by R/O and Detective Fossum to the Lexington County Sheriff's Department. Other officers remained at the residence and burgundy Cadillac for search and seizure. The findings of those searches are described in supplemental reports forwarded by Detective Joe Quig.

While enroute to the Sheriff's Department, R/O and Detective Fossum began to speak with Travis Harsey. Harsey was given an oral review of the rights as they pertain to the Miranda decision and R/O and Detective Fossum began to speak to Harsey about the allegations being made against him. Harsey at first denied knowing Corky Lewis at all and at first wanted to deny that he knew who Randall Tyler was. Harsey began to change that story and it was relayed to Harsey that Tyler was now in custody and had provided some information implicating Harsey's involvement. It was also explained to Harsey that we had obtained a detailed statement from James Williams as to what he had observed on Saturday.

At that time Harsey made the statement in the presence of R/O and Detective Fossum, of "Well, I might need to talk to my lawyer about this". R/O then made clear with Harsey that as had been explained to him earlier, he certainly had that right. R/O also explained to Harsey that if he had some explanation for the events of Saturday night, or if he wished to provide some detail or if he had some alibi and wished to provide that to law enforcement that if we were to take a statement from him, he would have to waive speaking to his attorney at this time. R/O asked Harsey to be specific as to whether or not he wanted to provide a statement, or whether or not he wanted to speak to his attorney. Harsey said that he still didn't know anything about what happened on Saturday night.

R/O then further explained to Harsey that not only did the statement provided by Tyler implicate him as being present at Lewis' home, that this statement by Tyler implicated Harsey as the trigger man. Harsey was then shown the statement provided by Tyler, showing that it was signed by Tyler, and that the contents of that statement were then provided to Harsey. Harsey became agitated and seemed to be somewhat in disbelief that Tyler would have provided such a statement.

SUBJECT IDENTIFIED YES ☐ NO ☐ SUBJECT LOCATED YES ☐ NO ☐

REASON FOR EXCEPTIONAL CLEARANCE: 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTION 3 ☐ VICTIM/INMATE DECLINES COOPERATION 4 ☐ EXTRADITION DENIED 5 ☐ JUVENILE, NO ARREST

REPORTING OFFICER: PRIER, SCOTTIE DATE: 07-29-02 UNIT NUMBER: 306

APPROVING OFFICER: _____ DATE: _____ UNIT NUMBER: _____

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CERTIFICATE OF SERVICE

ORIGINAL

C/A No. 2007-CP-32-0907

Randall Tyler -- Petitioner,

-Vs-

State of South Carolina -- Defendants

CLERK OF COURT
LEXINGTON, SC

PPB

6/13/12 P 10:00

The undersigned hereby certifies has has served a true and correct copy of the enclosed Motion and attached exhibits upon the following parties whose addresses appear below, by placing a copy of same in properly addressed, first-class postage affixed envelopes this 10 day of March, 2012.

Ms. kaleon E. May, Esq.
Office of Attorney General
P.O. Box 11549
Columbia, SC. 29211

Honorable Judge Young
Attention Judge Young's Law Clerk
Lexington County Courthouse
139 E. Main St.
Lexington, SC. 29072-3494

Beth Carrigg, Clerk
for Lexington County
139 E. Main St.
Lexington, SC. 29072-3494

Ms. Adrienne Turner, Esq.
Attorney At Law
P.O. Box 11844
Columbia, SC. 29211

Respectfully Submitted,

/s/ Randall Tyler
Randall Tyler
SCDC# 294029
Lieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

SWORN TO AND SUBSCRIBED BEFORE

THIS 10 DAY OF MARCH, 2012

NOTARY PUBLIC

MY COMM. EXPIRES 1/24/2018



ALAN WILSON
ATTORNEY GENERAL

March 27, 2012

Honorable Beth Carrigg
Clerk of Court, Lexington County
205 East Main Street, Suite 146
Lexington, SC 29072

RE: Randall S. Tyler, #294029 v. State of South Carolina
2007-CP-32-0907

Dear Ms. Carrigg:

I received the attached "Applicant's Motion to Include SI.ED and Police Reports" in the aforementioned matter on March 26, 2012. Please be advised that Rule 11 of the South Carolina Rules of Civil Procedure requires every pleading, motion or other paper of a party represented by counsel to be signed by at least one attorney of record who is an active member of the South Carolina Bar. If a pleading, motion or other paper is not signed or does not comply with this Rule, "it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant." Rule 11, SCRCP.

Therefore, the State does not consider this motion part of this action. According to our records, Inmate Randall S. Tyler is represented by Adrienne L. Turner, Esquire. By copy of this letter, I am notifying counsel of the State's position.

Sincerely,

Kaelon E. May
Assistant Attorney General

KEM/lp

cc: Adrienne L. Turner, Esquire
Randall S. Tyler, #294029

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

ELEVENTH JUDICIAL CIRCUIT

CASH NO.: 2007-CP-32-00907

2012 APR 16 P 3:20

Randall Scott Tyler

MOTION AND ORDER INFORMATION

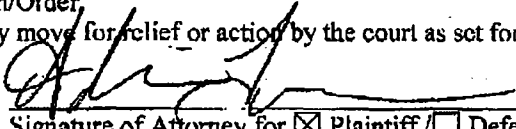
Plaintiff,

FORM AND COVERSHEET

vs.

The State of South Carolina

Defendant.

Plaintiff's Attorney: Kaleon E. May, Bar No. _____ Address: P.O. Box 11549, Columbia, SC 29211 Phone: _____ Fax: _____ E-mail: _____ Other: _____	Defendant's Attorney: Adrienne L. Turner, Bar No. 06840 Address: 220 Stoneridge Drive, Suite 100, Columbia, SC 29210 Phone: 803-254-0707 Fax 803-254-5609 E-mail: aturner@boykinlawsc.com Other: _____
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: ☐ YES / ☐ NO	
SECTION II: Motion/Order Type	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for ☒ Plaintiff / ☐ Defendant 4/16/12 Date submitted	
SECTION III: Motion Fee	
☐ PAID - AMOUNT: \$ _____ ☒ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____	

BOYKIN & DAVIS, LLC

Attorneys and Counselors at Law.

220 STONERIDGE DRIVE, SUITE 100
COLUMBIA, SOUTH CAROLINA 29210POST OFFICE BOX 11844
COLUMBIA, SOUTH CAROLINA 29201

aturner@boykinlawsc.com

TELEPHONE: 803-254-0707
FACSIMILE: 803-254-5609

CHARLES J. BOYKIN*
KENNETH A. DAVIS
ADRIANNE L. TURNER
DEIDRE D. LAWS
KIMBERLY A. GERTNER
REAGAN S. FLEMMING
SHAWN D. EUBANKS
COURTNEY M. LASTER

PETER E. KEUP*
OF COUNSEL

* CERTIFIED CIVIL ARBITRATOR AND MEDIATOR
† ALSO ADMITTED IN CALIFORNIA

April 16, 2012

FILED
APR 16 P 3:20
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

VIA HAND DELIVERY

The Honorable Beth Carrigg
Lexington County Clerk of Court
205 E. Main Street
Lexington, South Carolina 29072

Re: Randall Tyler v. State of South Carolina
C.A. No.: 2007-CP-32-0907

Dear Ms. Carrigg:

At the request of Petitioner, Randall Tyler, I have endorsed and enclosed the "Request to Reconvene and Motion to include Sled and Police Reports," which Mr. Tyler prepared and previously submitted without the signature of counsel. Please advise if Mr. Tyler needs to do anything further in order to comply with the Court's directives regarding appropriate filing of motions.

Thank you for your consideration and attention to this matter.

Sincerely,


Adrienne L. Turner

/lth

Cc: Kaelon E. May, Esq. (w/encl.)
Randall Tyler (w/o encl.)

Honorable Judge Young
Att: Judge Young's Law Clerk
Lexington County Courthouse
139 E. Main St.
Lexington, SC. 29072-3494

Beth Carrigg, Clerk
Lexington County
139 E. Main St.
Lexington, SC. 29072-3494

Ms. Kaleon E. May, Esq.
Office of Attorney General
P.O. Box 11549
Columbia, SC. 29211

Ms. Adrienne Turner, Esq.
Attorney at Law
P.O. Box 11844
Columbia, SC. 29211

RE: Randall Tyler v. State of SC.
Motion to include SLED and Police Reports
PCR C/A No-2007-CP-32-0907

March 9, 2012

Dear Ms. May,

Enclosed please find the above captioned motion and SLED and Police Reports that were testified to and from during the PCR hearing but were overlooked/misplaced during housekeeping matters.

I thank you for your time and consideration in this matter.

enclosures
as noted

Kindes Regards,
Randall Tyler

CERTIFICATE OF SERVICE

C/A No.2007-CP-32-0907

Randall Tyler -- Petitioner,

-Vs-

State of South Carolina -- Defendants,

The undersigned hereby certifies has has served a true and correct copy of the enclosed Motion and attached exhibits upon the following parties whose addresses appear below, by placing a copy of same in properly addressed, first-class postage affixed envelopes this 19 day of March, 2012.

Ms. kaleon E. May, Esq.
Office of Attorney General
P.O. Box 11549
Columbia, SC. 29211

Honorable Judge Young
Attention Judge Young's Law Clerk
Lexington County Courthouse
139 E. Main St.
Lexington, SC. 29072-3494

Beth Carrigg, Clerk
for Lexington County
139 E. Main St.
Lexington, SC. 29072-3494

Ms. Adrienne Turner, Esq.
Attorney At Law
P.O. Box 11844
Columbia, SC. 29211

Respectfully Submitted,

/s/ Randall Tyler
Randall Tyler
SCDC# 294029
Lieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

SWORN TO AND SUBSCRIBED BEFORE

THIS 19 DAY OF MARCH, 2012

[Signature]
NOTARY PUBLIC

MY COMM. EXPIRES 1/24/2018

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) ELEVENTH JUDICIAL CIRCUIT

C/A No. 2007-CP-32-0907

Randall Tyler	)	NOTICE OF MOTION AND MOTION TO
Petitioner,	)	AMEND THE PLEADINGS TO CONFORM TO
-v-	)	EVIDENCE TO INCLUDE THE SLED AND
State of South Carolina	)	POLICE REPORTS THAT WERE MISPLACED
Defendant,	)	DURING THE PCR HEARING
_____	)	

TO: Ms. Kaleon E. May, Esquire, Attorney for Defendant

YOU WILL PLEASE TAKE NOTICE, the pursuant to Rule 15, SCRCP, Petitioner hereby moves this Honorable Court for an order amending to conform to the evidence offered during the PCR hearing, to include SLED and Police Reports that Petitioner testified to and from during the PCR hearing, but due to the large amount of documentary evidence was presented during the hearing the attached SLED and Police Reports were misplaced and/or overlooked during housekeeping matters.

The attached SLED and Police Reports do not add new or additional evidence to be considered, but merely to include and incorporate by reference evidence that was testified to and from during the hearing and was misplaced during housekeeping matters. The attached SLED and Police Reports were testified to and in

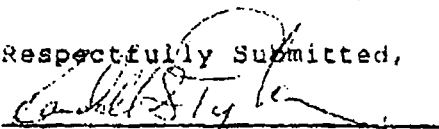
support of Petitioner's ineffective assistance of counsel claims for failure to investigate, i.e. Petitioner testified during the hearing that "the reason for the second and third interviews with Donna Hutto and Johnny Hutto was two-fold since the time-line did not give as it should have with the CAD Report and 911 call", and further that Petitioner had obtained the files from SLED himself through correspondence with SLED.

Neither party will be prejudiced thereby, as Petitioner gave direct testimony in support to the attached SLED and Police Reports during the PCR hearing to and from the SLED and Police Reports in support of Petitioner's claims.

For all the foregoing reasons, Petitioner motion to amend and include the attached documents as evidence in support should be granted.

Submitted March 19, 2012
Ridgeville, SC.

Respectfully Submitted,

/s/ 
Randall Tyler
SCDC# 294029
Lieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

Sept. 7, 2004

2004-560

Michael J. Brown Lieutenant
 Supervisory Special Agent
 S.L.E.D.
 P.O. BOX 21398
 Columbia, S.C. 29221-1398

Rec'd
 9/10/04
 Due
 9/30/04

RE: Case File pertaining to Randall Scott Tyler

Dear Michael J. Brown,

I am writing in request of my case file pertaining to warrant numbers (H-128792) and (H-128821).

I was arrested on July 14, 2002 on the charges of murder and burglary 1st in Lexington County, and I was indicted on June 5, 2003. The indictment numbers are (2003-GS-32-2266) and (2003-GS-32-2265).

At this time would like to ask for your assistance in obtaining a copy of my case file, to include any and all pictures developed or undeveloped, as well as any and all police reports, statements and documents.

I understand that there will be a fee and if you could let me know how much monies this will take and supply me with the information on how and where to send it, I will make the necessary arrangements.

I thank you very much for your time and consideration in this matter and I look forward to hearing from you at your earliest convenience.

Respectfully,

Randall S. Tyler

Randall S. Tyler #294029

Evans Corr. Inst. P-1-A-188

610 Highway 9 West

Donnalville, SC. 29512

DC-8714

Arson Fire
 DNA Lat
 Drug Rec

cc/file

Toy

Trace

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWAR
Chief

September 21, 2004

Mr. Randall S. Tyler, #294029
Evans C. I. / F-1-A-168
610 Highway 9 West
Bennettsville, SC 29512

Dear Mr. Tyler:

In order to adequately search our database, I will need the following additional information:

NAME OF VICTIM(S)

Once the above information is received, we will search our database and advise you of our findings.

Sincerely,

M. J. Brown

Michael J. Brown, Lieutenant
Supervisory Special Agent
FOIA/Subpoena Compliance Coordinator

MJB/mcp/FOI#2004-560



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MICHAEL J. BROWN

SUPERVISORY SPECIAL AGENT

FOIA/SUBPOENA COMPLIANCE COORDINATOR

*Rec'd
10/7/04
Duc
10/27/04*

OCTOBER 6, 2004

Dear Mr. Brown,

I am in receipt of your letter and I thank you very much for time.

In your letter you stated that you needed the name of the (VICTIM) in my case before you could process my request for the information I requested.

The victim's name was (Robert Clyde Lewis), his address at the time of the incident was (1639 Savannah highway, Swansea, South Carolina.

I thank you very much for your time and help in this matter.

Respectfully,



Randall Scott Tyler #294029

Evans Corr. Inst. F-1-A-168

610 Highway 9 West

Bennettsville, South Carolina

29512

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

December 11, 2004

Mr. Randall Scott Tyler, #294029
Evans C. I. / F-1-A-168
610 Highway 9 West
Bennettsville, SC 29512

RE: SLED LAB NO.: L02-8714

Dear Mr. Tyler:

I have completed my review of your file. Listed below are the charges associated with this request.

197 pages @ \$.25 per page of copy	- \$ 48.25
Research and/or copying time	- <u>15.00</u>
TOTAL	- \$ 64.25

Please remit payment to the State Law Enforcement Division, and address the envelope to Lt. Mike Brown, SLED Public Information Office, P. O. Box 21398, Columbia, SC 29221-1398. After receipt of the money order, the information will be forwarded to you.

Sincerely,

M. J. Brown / mcp

Michael J. Brown, Lieutenant
Supervisory Special Agent
FOIA / Subpoena Compliance Coordinator

MJB/mcp/FOI#2004-560



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SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

July 19, 2005

Mr. Randall Scott Tyler, #294029
Lieber C. I. / E-A-30
P. O. Box 205
Ridgeville, SC 29472

RE: SLED LAB #: L02-8714 (Arson, DNA, Drug ID, Firearms,
Latent Prints, Processing, Toxicology & Trace Depts.)

Dear Mr. Tyler:

I am in receipt of your letter dated July 7, 2005, and attached money order in the amount of \$64.25. Please find enclosed the information available to you under the Freedom of Information Act concerning the above referenced case.

Sincerely,

M. J. Brown / mcp

Michael J. Brown, Lieutenant
Supervisory Special Agent
FOIA/Subpoena Compliance Coordinator

MJB/mcp/FOI#2004-560



An Accredited Law Enforcement Agency
P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

October 14, 2004

To: Tammy Rawl
From: Lieutenant C. Todd Hughey *CTH*
RE: FOI 2004-560 (L02-08714)

FOI Request 2004-560 was received on L02-08714 requesting a copy of the completed case report. Upon review of the case file, it was determined that no analysis of the evidence submitted in this case was performed. The evidence in question was returned by request to the Lexington County Sheriff's Office unanalyzed. This department issued no Drug Analysis Report on the case in question. Therefore, no such requested document exists.

CTH



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P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041

CASE # 2007-CP-32-00907

**DOCUMENTS NOT
SCANNED**

INVESTIGATIVE REPORTS

Study 47
 Box # 244
 Del (Per. Trust)
 Box 205 E-13
 Box 1320 Ave
 Columbia, SC
 29472

Ms. Kileen L. May, Esq.
 Office of Attorney General
 P. O. Box 11549
 Columbia, SC
 29211

MAR 2 2012
 MAIL ROOM
 JEBER CL.

1 State of South Carolina) In the Court
2 County of Lexington) Of Common Pleas
3
4 Docket No. 2007-CP-32-0907
5
6 Randall Scott Tyler,)
7 Petitioner)
8 vs.) Transcript of Record
9)
10 State of South Carolina,)
Respondent)

11
12 February 2, 2012
13 Lexington, South Carolina
14

15 B E F O R E:

16 The Honorable Jeffrey Young, Judge.
17

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

19 Adrianne L. Turner, Esquire
20 Attorney for the Applicant

21 Kaelon E. May, Assistant Attorney General
22 Attorney for the Respondent
23

24 Brenda J. Sigwald, Circuit Court
25 P.O. Box 206, Jackson, South Carolina 29831

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1 **THE COURT:** Looks like the first case before us is
2 Randal S. Tyler versus State of South Carolina, Docket
3 Number 2007-CP-32-209. Would the parties please identify
4 themselves.

5 Yes, ma'am?

6 **MS. MAY:** Please the Court, Your Honor, my name is
7 Kaelon May for the Attorney General's Office.

8 **THE COURT:** All right.

9 Yes, ma'am?

10 **MS. TURNER:** Thank you, Your Honor. My name is
11 Adrienne Turner, representing Mr. Tyler.

12 **THE COURT:** Are y'all ready to proceed? Is there
13 anything before we --

14 **MS. MAY:** Unless Your Honor would like a procedural
15 history, we're ready to proceed.

16 **THE COURT:** All right. Ms. Turner, are you ready
17 to proceed?

18 **MS. TURNER:** I am.

19 **THE COURT:** Go ahead and call your first witness.

20 **MS. TURNER:** Your Honor, we would call Vicki
21 Hallman.

22 **THE COURT:** Okay.

23 **MS. TURNER:** I'm sorry, Your Honor. Mr. Tyler has
24 asked that the other potential witnesses, including Mr.
25 Swarat and Mr. Bolt be not in the courtroom during

Vicki Hallman - Direct Examination by Ms. Turner

1 Ms. Hallman's testimony.

2 THE COURT: Any objection?

3 MS. MAY: No objection.

4 THE COURT: All right. Y'all can go wait in the
5 hall and have a cup of coffee or something like that.

6 VICKI HALLMAN,

7 having been duly sworn, testified as follows:

8 THE CLERK: Have a seat and state your name for the
9 record.

10 THE WITNESS: Vicki Hallman. H-a-l-l-m-a-n.

11 **DIRECT EXAMINATION**

12 BY MS. TURNER:

13 Q Ms. Hallman, can you tell me where you were
14 employed in 2002 -- well, did you have occasion to
15 participate in the investigation and testify at the trial
16 of Mr. Tyler in 2003?

17 A Yes, I did.

18 Q Okay. Where were you employed?

19 A At that time I was employed with the Lexington
20 County Sheriff's Office. I was assigned to their
21 identification or crime scene unit.

22 Q And what was your title?

23 A I was a senior investigator.

24 Q Okay. In connection with the services that you
25 provided with investigating Mr. Tyler's case, did you take

Vicki Hallman - Direct Examination by Ms. Turner

1 some pictures of Mr. Tyler's hands that were later entered
2 into evidence at the trial?

3 A I believe so.

4 Q Okay. I'm going to show you some photographs here.

5 MS. TURNER: Your Honor, if I might approach?

6 THE COURT: You may.

7 BY MS. TURNER:

8 Q Ms. Hallman, I'm going to show you copies of
9 State's Exhibit's 18, 19, and 20. Okay. Could you tell me
10 whether you've seen those photographs before?

11 A Yes, I have.

12 Q Okay. And did you actually take those --

13 A Yes.

14 Q -- photographs?

15 A Yes, I did.

16 Q Okay. At what -- do you remember when you took
17 those?

18 A I don't have any idea. I know that it was after
19 the incident occurred, but I don't know the exact date.

20 Q Okay. At the time that you did take these photos,
21 is that the only time that you photographed Mr. Tyler's
22 hands?

23 A Yes.

24 Q Okay. I'm going to refer to a portion of your
25 testimony.

Vicki Hallman - Direct Examination by Ms. Turner

1 MS. TURNER: Your Honor, and Madame Assistant
2 Attorney General, I'm referring to page 125 of the trial
3 transcript. I believe I do have another copy of the trial
4 transcript.

5 BY MS. TURNER:

6 Q If you could please go to page 125 for me,
7 Ms. Hallman.

8 A Thank you. You said 125? 125?

9 Q Yes, ma'am. Page 125.

10 Okay. And at line 17, at what point on what date
11 do you indicate that these photos were taken?

12 A It says that they were taken on July 23rd.

13 Q Okay. And does your testimony indicate how long
14 after the incident of Mr. Corky's death?

15 A Well, the next line indicates that was nine to ten
16 days after the homicide.

17 Q Okay.

18 (WHEREUPON there was a pause in the proceedings.)

19 THE COURT: Is there any objection to the
20 photographs coming in?

21 MS. MAY: I'm going to object just because I don't
22 know where those came from or who took those photographs.

23 THE COURT: Where did those photographs come from.

24 MS. TURNER: The sheriff's office. The same place
25 that they stayed.

Vicki Hallman - Direct Examination by Ms. Turner

1 THE COURT: Were they presented in the trial?

2 MS. TURNER: These were not, but that's one of
3 Mr. Tyler's issues.

4 THE COURT: Okay.

5 MS. TURNER: And if I might approach?

6 THE COURT: You may.

7 BY MS. TURNER:

8 Q Can you identify those photos? Did you -- did you
9 take those photos?

10 A Those appear to be copies -- the actual -- an
11 actual photograph of what you showed me just a couple of
12 minutes ago that you had Xerox copies of.

13 Q Okay. Let me -- let me show you these. And I'm
14 going to get these other photos. These, again, are State's
15 Exhibit 18, 19, and 20.

16 A Those are copies of those. And I would assume that
17 these were also more than I took, but without having the
18 negatives and everything, I couldn't say for sure, but they
19 appear to have all been taken at the same time.

20 Q Okay. These photos, you believe, were taken at the
21 same time as these and you believe that you took all of
22 these pictures?

23 A That's correct.

24 Q Okay.

25 MS. TURNER: Your Honor, I would like to have the

Vicki Hallman - Direct Examination by Ms. Turner

1 State's Exhibits that were entered at trial, as well as the
2 photographs that Ms. Hallman has identified entered into
3 evidence.

4 **THE COURT:** Any objections?

5 **MS. MAY:** I have no problem with the ones that
6 correspond with the copy, the black and white copies, but
7 the other ones, I would object.

8 **THE COURT:** Okay. Objection is sustained. We'll
9 let the ones that are already in.

10 **MS. TURNER:** I would only note, Your Honor, that
11 Ms. Hallman has identified these pictures that she believes
12 that she also did take.

13 **THE COURT:** Right. But what's the issue if they
14 didn't put them into evidence? Are you saying that
15 Mr. Bolt should have put them into evidence? Because
16 that's what this trial is about; isn't it?

17 **MS. TURNER:** Yes, sir and that is the issue.

18 **THE COURT:** And they were taken by you.

19 **THE WITNESS:** As far as I know, yes, sir. It's
20 been about ten years.

21 **THE COURT:** For purposes of this hearing, I'll let
22 them in.

23 (WHEREUPON Petitioner's Exhibits 1 through 8 were
24 marked for evidence.)

25 **THE COURT REPORTER:** These are Petitioner's 1

Vicki Hallman - Direct Examination by Ms. Turner

1 through 8, Your Honor.

2 THE COURT: All right.

3 BY MS. TURNER:

4 Q Ms. Hallman, at the time you testified at Mr.
5 Tyler's trial, were you an expert or were you -- did you
6 have any particular qualifications as an expert in blood
7 spatter evidence?

8 A I had received training at that point in time, but
9 I was not qualified as an expert in court that day.

10 Q Okay. Thank you.

11 MS. TURNER: I don't have any further questions.

12 THE COURT: Any questions?

13 MS. MAY: I have no questions, thank you.

14 THE COURT: Thank you, you may step down.

15 MS. TURNER: I'm sorry, Your Honor, my client is
16 asking me to address one more issue.

17 THE COURT: I will allow you one more question.

18 MS. TURNER: Thank you, Your Honor. Your Honor, if
19 I might approach?

20 THE COURT: You may.

21 BY MS. TURNER:

22 Q Ms. Hallman, can you identify this document for me?

23 A It is an internal sheet that goes inside a gunshot
24 residue kit.

25 Q Okay. And is that a form that you were working on

Vicki Hallman - Direct Examination by Ms. Turner

1 personally?

2 A Yes, it has my signature on it.

3 Q Okay. If you will refer to the highlighted area,
4 which on the form it indicates, write a brief description
5 of subject's activity between the time of the shooting and
6 the time of the gunshot residue collection -- actually, if
7 you could tell us the subject of the analysis?

8 A John Marshall Hutto.

9 Q Okay. And now, if you would give us your
10 description?

11 A I just note, it says right a brief description of
12 subject's activity between the time of the shooting and the
13 time of the GSR collection. I just wrote in sister came to
14 residence and he went back to incident location with -- and
15 apparently I didn't finish filling that out.

16 Q Okay. Is there any reason that you didn't?

17 A I don't know.

18 Q Okay. And do you have any recollection at this
19 point what Mr. Hutto went back to the residence with? Do
20 you have any idea what should have finished that sentence?

21 A No, it's been ten years. I have no idea what I
22 would have put there. Not at this point.

23 Q Okay. Thank you. Just a minute.

24 MS. TURNER: I would like to have this marked and
25 entered into evidence, please.

Vicki Hallman - Direct Examination by Ms. Turner

1 MS. MAY: No objection.

2 THE COURT: This would be which exhibit, please?

3 THE COURT REPORTER: Petitioner's 9.

4 THE COURT: Number 9, without objection.

5 (WHEREUPON Petitioner's Exhibit 9 was marked into
6 evidence.)

7 BY MR. TURNER:

8 Q Do you have any recollection in that you were
9 performing a gunshot residue test on Mr. John Hutto,
10 whether the item that he actually returned to the location
11 of the homicide with was a gun?

12 A I did not recall that until I read over the
13 transcript.

14 Q Do you now recall that it was a gun?

15 A Yes, it was a gun, but I have no idea what I was
16 going to put on that sheet because when I did that gunshot
17 residue kit, I don't even know that I knew about him with a
18 gun.

19 Q Okay. And does this gunshot residue kit indicate
20 whether he actually had residue?

21 A No. This sheet -- when I perform a gunshot residue
22 kit, it is folded and put in the kit for the trace
23 department at SLED. It basically gives them basic
24 information because it asks is the subject living or
25 deceased, if they're right-handed or left-handed; was there

Vicki Hallman - Direct Examination by Ms. Turner

1 any debris on their hand; what type of job they had. This
2 is just an information sheet for the trace department. The
3 trace department at SLED would have done the analysis on
4 this, so I have no idea.

5 Q Okay. Thank you. Thank you.

6 MS. TURNER: Thank you, Your Honor. No further
7 questions.

8 THE COURT: All right. You may step down -- or do
9 you have any questions concerning the...

10 MS. MAY: I have no further questions.

11 THE COURT: Any objection to this witness being
12 excused?

13 MS. TURNER: None, Your Honor.

14 THE COURT: Thank you.

15 THE WITNESS: Thank you. You want me to just leave
16 this transcript here.

17 THE COURT: No. Give it back to her. Thank you.
18 You may call your next witness.

19 MS. TURNER: Your Honor, we call Mr. Swarat,
20 please.

21 THE COURT: All right. Mr. Swarat, come forward.

22 AUGUST G. SWARAT, II,

23 having been duly sworn, testified as follows:

24 THE CLERK: Have a seat and state your name for the
25 record, please.

August G Swarat - Direct Examination by Ms. Turner

1 THE COURT: Good morning.

2 THE WITNESS: My first name --

3 THE COURT: Ms. Turner, you may proceed.

4 DIRECT EXAMINATION

5 BY MS. TURNER:

6 Q Hi, Mr. Swarat. Can you please tell us your role
7 in Mr. Tyler's 2003 trial for homicide?

8 A Yes, ma'am, I was the lead prosecutor on Mr.
9 Tyler's case.

10 Q Okay. And you were assisted in that trial with
11 another assistant solicitor?

12 A Yes, ma'am. Marian Moses assisted me on that case,
13 yes, ma'am.

14 Q Okay. During the testimony of Vicki Hallman, who
15 was called as a State's witness, do you recall photographs
16 being entered into the records of Mr. Tyler's hands?

17 A I remember photographs of his hands being entered
18 into evidence. I don't recall what witness they came in
19 through, no, ma'am.

20 Q Okay.

21 MS. TURNER: Your Honor, if I might approach?

22 THE COURT: You may.

23 MS. TURNER: I'm going to refer Mr. Swarat to page
24 125 of the transcript.

25 THE WITNESS: Do you want me to review it?

August G Swarat - Direct Examination by Ms. Turner

1 BY MS. TURNER:

2 Q Yes, the highlighted portions, please.

3 A Yes, ma'am, I remember this section that's
4 highlighted is talking about two exhibits, I guess they're
5 photographs and she is describing what's shown in the
6 photograph. Yes, ma'am.

7 Q Okay. I'm going to show you what is -- what have
8 been marked as Plaintiff's Exhibits 6, 7, and 8 at trial.
9 They were the State's Exhibit's 18, 19, and 20. I believe
10 these are copies of photographs. Do those appear to be a
11 fair representation of the photographs that were entered at
12 trial?

13 A Based on my memory, they appear to be and the issue
14 at hand and why these photographs were taken at the jail,
15 there was some blood left at the scene and specifically,
16 there was blood left on a ceiling tile, I believe, in one
17 of the rooms of the house where the homicide occurred and
18 they were trying to figure out the source of the blood and
19 when they talked to Mr. Tyler, they noticed the abrasions
20 on his hands and I believe they took these photographs in
21 order to memorialize that.

22 Q Okay. At trial, I believe you solicited testimony
23 from Ms. Hallman that those photographs were taken
24 approximately ten days after the incident itself?

25 A It -- it appears that's what it states in the

August G Swarat - Direct Examination by Ms. Turner

1 record, yes, ma'am.

2 Q Okay. And I'm going to show you Plaintiff's
3 Exhibits 5 and 3, which are color photos, which Ms. Hallman
4 identified as being representative of the State's Exhibits
5 18 and 19.

6 A Yes, ma'am. What were you asking me? I apologize.

7 Q Would you agree that those are the accurate photo,
8 color photos of the State's Exhibit's showing Mr. Tyler's
9 hands as Ms. Hallman testified at trial?

10 A They appear to be, yes, ma'am.

11 Q Okay.

12 A And another exhibit that would have gone with this
13 would have been the ceiling tile that was damaged in the
14 room. It had knuckle marks and also there was blood that
15 was collected from the ceiling tile. That would have been
16 introduced during her testimony at approximately the same
17 time.

18 Q Okay. I'm going to show you what has been -- two
19 photos that have been entered as Plaintiff's Exhibits 1 and
20 2. Would you agree that those photos do not depict the
21 same injuries as State's Exhibits 18 and 19? Or, I'm
22 sorry, 19 and 20?

23 A It doesn't appear from these photographs that the
24 same abrasions are still apparent on his hands, but I don't
25 know when these photographs were taken.

August G Swarat - Direct Examination by Ms. Turner

1 Q Okay. Mr. Swarat, during Mr. Tyler's trial, did
2 you have occasion to call as a State witness Ms. Donna
3 Hutto?

4 A Yes, she was the victim's common law wife and was
5 an eyewitness to some of what took place the night he was
6 killed.

7 Q Okay. Was Ms. -- did Ms. Hutto give any statements
8 to the police?

9 A Did she give any statements to the police?

10 Q Yes.

11 A You mean during the investigation?

12 Q Yes, sir.

13 A She may have, I don't recall specifically what
14 statement she may have given.

15 Q Okay. Do you recall that she gave, in fact, two
16 statements?

17 A I don't recall. She may have.

18 Q Okay. And you just don't recall what the content
19 of those statements were?

20 A I recall she was questioned about what took place
21 that night and that some of that information was contained
22 in her statements, but I don't recall verbatim what her
23 statements would have been, no, ma'am.

24 Q Okay. Do you recall the reason that she was
25 required to give a second statement?

August G Swarat - Direct Examination by Ms. Turner

1 A No, ma'am, I don't recall.

2 Q Do you recall any conflict in the timeline that
3 Ms. Hutto originally gave to the police regarding her
4 arrival at the scene with her brother?

5 A Say that again. I'm sorry.

6 Q Do you recall there being any conflict in the
7 timeline that Ms. Hutto provided to the police regarding
8 her arrival back at the scene of Mr. Louis's death along
9 with her brother John Hutto?

10 A I don't recall anything about there being an issue
11 with timing. I do remember -- and it's vague -- that there
12 was something about her brother came back --

13 THE COURT: Hold on just a second. I've got to say
14 this. Everybody's got to stay awake in this courtroom. I
15 know that it may be dry, but I can't have people who are
16 guarding people nodding off. So please -- if you need a
17 cup of coffee -- if you need a cup of coffee, whatever it
18 may be, please get a cup of coffee. Thank you.

19 You may proceed.

20 MS. TURNER: Thank you, Your Honor.

21 THE WITNESS: What I recall, there was some issue
22 about her brother coming back to the house with her. And
23 just so the record's clear, Ms. Hutto heard the argument
24 between Mr. Tyler and Corky Lewis who was her common law
25 husband. She fled the scene before he was actually shot

August G Swarat - Direct Examination by Ms. Turner

1 and went to go get help and she fled to her brother's
2 house. When they came back, it's my understanding, her
3 brother brought back a firearm and there was some concern
4 she had about telling the police that he had a firearm
5 because I don't know if legally he could possess a firearm
6 and she didn't want to get her brother in trouble. I do
7 remember that vaguely, but that's the only thing I
8 remembered that was different in her statements.

9 Q Okay. And was that -- those conflicting
10 statements, was that testimony that you elicited from
11 Ms. Hutto at trial?

12 A I don't recall if that came out in the trial
13 because it was somewhat of a trivial matter and not really
14 an issue in the case. It might have been an issue for her
15 brother at the time that he came back to the house that he
16 didn't want to talk with the police and have them know he
17 had a firearm when he wasn't supposed to possess one. But
18 it wasn't an issue in the facts of the case or the didn't
19 have anything to do with the crime that took place.

20 Q In your closing argument to the jury --

21 A Yes, ma'am.

22 Q -- I believe that you mentioned to the jury there
23 being rules that prevented the State from having Mr. Tyler
24 and a codefendant Travis Harsey in the same room or in the
25 Court at the same time?

August G Swarat - Direct Examination by Ms. Turner

1 A I don't recall that.

2 Q Okay. I'm going to refer to 353 of the transcript?

3 A I may have been referring to an evidentiary issue.
4 I don't recall. It's been about eight years since this was
5 going on. What page would you like me to read?

6 Q 353, beginning at line 8, Mr. Swarat.

7 A Yes, ma'am.

8 Q I believe that your statement is, we have -- we've
9 got rules we have to follow. The rules are -- there are
10 rules that prevented us from putting Travis Harsey in the
11 courtroom this week with Mr. Tyler. I'm not even allowed
12 to explain to you what the rules are. If you want to ask
13 me after the trial is over, I'll be happy to explain it to
14 you. That's the shell game that's a smoke screen. I
15 wasn't allowed to do it.

16 Can you tell me what -- what rules you were
17 referring to or what prevented --

18 A I think there was a Bruton issue. That's the
19 reason we didn't try Mr. Tyler and Mr. Harsey together and
20 because we didn't try Mr. Harsey at the same time, the
21 defense made some issue about that and I think I was
22 responding to something Mr. Bolt may have said in closing
23 argument.

24 Q Is there -- can you make any reference to what you
25 may have been responding to or -- I mean, do you have a

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1 specific recollection or you --

2 A I remember not trying the two together because
3 there was a Bruton issue like I mentioned. Mr. Harsey had
4 given a statement and they were somewhat pointing the
5 finger at each other and because of that, I chose not to
6 try them together.

7 Q And that was an election that you made rather than
8 an actual rule that existed that prevented you from trying
9 them together?

10 A Well, it would have prevented me from going into
11 the statements they made and there are all sorts of rules
12 that deal with Bruton as far as redacting statements and
13 what have you and I didn't want to go into all that.

14 Q Okay.

15 A It was a strategic decision not to try them
16 together because of the problem with the Bruton issue. The
17 reason that I said this during the closing argument was
18 because, if my memory serves me correctly, Mr. Tyler was
19 trying to argue mere presence and he was claiming that
20 Mr. Harsey had shot Mr. Lewis and that he had no idea that
21 that was going to occur when they went to his house and I
22 think that's why some of this came out in closing argument.

23 Q And I do understand, Mr. Swarat, but as far as the
24 reference that you were making to the jury, it wasn't to a
25 particular law or statutory civil or rule of procedure that

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1 said you absolutely could not do it. That was a strategic
2 decision you made on the part of the State?

3 A Right. I was --

4 Q -- for the sake of your case?

5 A What I was trying to relay was there was an
6 evidentiary issue that I couldn't go into and I couldn't
7 explain to them. I mean there was no way I could go
8 into -- and I wouldn't -- go into Bruton and all the case
9 law. That wouldn't make any sense and there was really no
10 purpose in me doing that. I just wanted them to understand
11 there was a reason Mr. Harsey wasn't in the courtroom. It
12 didn't have anything to do with the case itself. It didn't
13 have anything to do with Mr. Tyler's involvement in the
14 case, I guess is a better way to put it.

15 Q Okay. Mr. -- some of Mr. Harsey's statement was
16 introduced at trial; is that --

17 A That's correct.

18 Q -- is that correct?

19 A Yes, ma'am.

20 Q If you would refer to page 303 of the transcript?

21 A Okay, I'm on 303.

22 Q This occurs during your cross-examination, I
23 believe, Mr. Swarat of Mr. Tyler; is that correct?

24 A It appears to be, yes, ma'am.

25 Q Okay. And starting at line 3, I believe the

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1 question that you put to Mr. Tyler was why would Travis say
2 he parked his car way up the road so nobody could see? Why
3 would Travis say that and hurt himself?

4 A Yes, ma'am.

5 Q When you were referring to that, you were referring
6 to the statement that Mr. Harsey gave to the police; is
7 that --

8 A Yes, ma'am, I believe so.

9 Q Right. I'm going to show you a copy of what I
10 believe to be that statement. Mr. Harsey also gave two
11 statements to the police, I believe.

12 A He may have, I don't recall.

13 (WHEREUPON the attorneys were conferring over
14 statements.)

15 MS. MAY: I have no objection to these.

16 MS. TURNER: I'm sorry, Your Honor, may I approach?

17 THE COURT: You may.

18 BY MS. TURNER:

19 Q Could you identify those documents for me, Mr.
20 Swarat? I will tell you that there are two. One of them
21 is three pages, one of them is one.

22 A On the face of it, it appears to be a statement
23 that was taken by law enforcement, the Lexington County
24 Sheriff's Department on July 14th, 2002, by Detective
25 Scotty Friar, who is, I believe a major over at the

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1 sheriff's department now. The first document is a three
2 Page statement and the second document appears to be a one
3 page addendum that was taken the next day, also by
4 Detective friar, from Mr. Harsey. And like I said, it's a
5 one page statement.

6 Q The second statement from Mr. Harsey starts out, I
7 lied when I said I didn't have anything to do with the gun;
8 is that --

9 A Yes, ma'am.

10 Q Okay. You had both of these statements as part of
11 your file?

12 A I believe so, yes, ma'am.

13 Q Is that right? If you could take a moment and --
14 well, I guess I should also ask you are you aware of there
15 being any other statements by Mr. Harsey?

16 A There may have been, I don't know.

17 Q Okay. And he did not -- he was not -- he did not
18 testify at Mr. Tyler's trial; is that right?

19 A He did not testify at trial. If I remember
20 correctly, I was able to get these into evidence or at
21 least one of these statements into evidence as a statement
22 against interest. The trial court ruled that it could come
23 in as a statement against interest.

24 Q Okay. And I believe that was subject to an appeal
25 to Court of Appeals, but --

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1 A Correct. The Crawford case came out about the same
2 time or maybe a little after this trial and I believe the
3 appellant court ruled that it was harmless error but that
4 the statement should not have come in.

5 Q But it was only part of the statement that came in,
6 is that --

7 A I don't recall if the whole thing came in or part
8 of it, I don't recall.

9 Q Okay. Well, in reviewing all -- of both of the
10 statements, can you tell me if at any point Mr. Harsey
11 actually alleges that he parked the vehicle that he and Mr.
12 Tyler went to be Mr. Lewis's house in a space with the
13 intent that nobody should see it?

14 A This is the part that is likely what you're talking
15 about: Randy had me park at the top of the drive at the
16 road, which based on the way the property was laid out and
17 I think we put some aerial photographs in evidence, if he
18 would have been parked at the top of the drive at the road,
19 you could not see the vehicle from the house and it was a
20 fairly long walk back into the property. Maybe 75 yards.
21 So he would have parked -- based on this statement about 75
22 yards away from the house and had to walk all the way in.

23 Q Right. But is there any point in Mr. Travis' -- I
24 mean Mr. Harsey's statement where he says that he parked
25 his car way up the road so nobody could see?

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1 A No, that's just actually, if he parked it by the
2 road, the car would not have been visible from the house.

3 Q Okay. So when you say why would Travis say he
4 parked his car way up at the road so nobody could see, why
5 would Travis say that and hurt himself? He didn't actually
6 say that.

7 A Well, he said he parked his car -- Randy had me
8 park the car up by the road, which visually based on the
9 way the property was laid out, it would have been
10 concealed.

11 Q Right?

12 A That's what I was talking about.

13 Q And I'm sorry, Mr. Swarat, I really don't mean to
14 spend a lot of time splitting hairs, but --

15 A Okay.

16 Q The question that was posed to be Mr. Tyler at
17 trial was why would Travis say he parked his car way up at
18 the road so nobody could see, why would Travis say that and
19 hurt himself. He didn't actually say that he parked it
20 with the intent that nobody should see it?

21 A He didn't say that, but the fact that he mentioned
22 in his statement that he parked the car way up by the road
23 did hurt him and I used that against Mr. Harsey when he
24 went to court.

25 Q Okay.

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1 MS. TURNER: And, Your Honor, if I might have just
2 a moment.

3 THE COURT: Yes, ma'am.

4 BY MS TURNER:

5 Q Mr. Swarat, if you would please go to page 361?

6 A 361?

7 Q Yeah, of the transcript.

8 A Okay. Yes, ma'am.

9 Q At line 4, this is part of your closing argument,
10 I'm sorry.

11 A Okay.

12 Q I believe that you state that -- and I'm quoting
13 you, I don't doubt at all that Travis Harsey was in the
14 garage with that gun pointing on Corky Lewis. Did that not
15 represent a departure from what the State's witnesses
16 testified, specifically Donna Hutto?

17 A No, ma'am. I don't understand what you mean.

18 Q Did Donna Hutto give any testimony during either
19 the State's case or the defense cross-examination
20 indicating that Travis Harsey was also in the garage?

21 A I don't think she testified about Mr. Harsey at all
22 to the best of my recollection. She testified she saw Mr.
23 Tyler and heard Mr. Tyler's voice and heard an argument
24 ensue between Mr. Lewis and Mr. Tyler and heard her
25 husband -- the tone that he had was fearful I believe is

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1 the way she described it or that he was scared, based on
2 the way he responded to Mr. Tyler. That's the way I
3 recall, but I don't know that I was commenting about the
4 testimony. I think I was commenting about the defense
5 strategy or just dealing with the strategy they were using
6 at trial.

7 Q And --

8 A I don't think this came from the testimony. I
9 think this was in response to -- the whole issue by the
10 defense was who shot Mr. Lewis fatally, who had the gun,
11 that sort of thing and I believe Mr. Tyler tried to say
12 that he went there with good intentions to visit his
13 friend, Mr. Lewis and that Mr. Harsey shot him and he
14 didn't know it was going to happen. That's my memory that
15 he tried to claim mere presence after his alibi fell apart
16 and a few other things went wrong for him.

17 MS. MAY: Your Honor, may I -- at this point, I
18 don't see how -- I mean, it seems Mr. Swarat asked
19 questions to explain what he said.

20 THE COURT: Yeah, I'm confused. This is a PCR
21 hearing. We're not retrying the case.

22 MS. TURNER: Absolutely, Your Honor. And I'm sorry
23 for interrupting you, one of my client's issues is that he
24 is moving forward on was prosecutorial misconduct and
25 the --

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1 THE COURT: Is that an issue for today?

2 MS. MAY: It's in his application, Your Honor. I
3 don't see how Mr. Swarat --

4 THE COURT: He certainly had the right to appeal
5 prosecutorial misconduct. A PCR hearing is concerning his
6 constitutional right as to his lawyer.

7 MS. TURNER: I do understand, Your Honor. I do
8 believe that prosecutorial misconduct is a proper aspect of
9 post conviction relief because this prosecutorial
10 misconduct that Mr. Tyler is alleging went un objected to
11 by his trial attorney and that does represent ineffective
12 assistance of counsel, which is what Mr. Tyler is
13 attempting to establish.

14 THE COURT: Yes, ma'am.

15 MS. MAY: I would argue that that's an issue for
16 trial counsel to testify as to why he did not object.

17 THE COURT: Yeah, I think you can ask him why, but
18 I'm not going to retry and look with a microscope
19 everything that the prosecutor did or did not do, what he
20 decided to put into evidence or what he didn't put into
21 evidence and what he put in his closing argument. You can
22 certainly ask trial counsel that, but I'm not going to
23 retry this case. You understand me?

24 MS. TURNER: Yes, Your Honor.

25 THE COURT: Okay.

August G Swarat - Cross-Examination by Ms. May

1 **MS. TURNER:** Thank you, Your Honor. Thank you, Mr.
2 Swarat, I don't have anything further.

3 **THE COURT:** Any cross-examination?

4 **MS. MAY:** Just one question.

5 **CROSS-EXAMINATION**

6 **BY MS. MAY:**

7 **Q** Mr. Swarat, aside from Donna Hutto's testimony,
8 there was presented that Mr. Harsey was present at the
9 scene?

10 **A** That Mr. Harsey was present at the scene?

11 **Q** Yes?

12 **A** Yes, ma'am.

13 **MS. MAY:** Nothing further, Your Honor.

14 **THE COURT:** All right. Thank you. Any redirect?

15 **MS. TURNER:** No, Your Honor.

16 **THE COURT:** Thank you. You may step down.

17 **THE WITNESS:** Your Honor, I'm under subpoena, may I
18 be excused?

19 **THE COURT:** Any objection to this witness being
20 excused.

21 **MS. TURNER:** No objection, Your Honor.

22 **THE COURT:** Thank you.

23 **MS. TURNER:** Your Honor, Mr. Tyler would request
24 that he be allowed to be unrestrained with at least one of
25 his hands so that he can look through his materials. There

August G Swarat - Cross-Examination by Ms. May

1 are a lot.

2 THE COURT: Any objection from SCDC? I mean you've
3 got three guards in here.

4 THE OFFICER: Just for clarification, Your Honor,
5 you just want one hand --

6 THE COURT: He wants one hand released so that he
7 can go through the file.

8 THE OFFICER: Is it all right with you, Your Honor.

9 THE COURT: I have no objection to it. I think
10 you've got enough officers in here.

11 THE OFFICER: Yes, sir.

12 (WHEREUPON there was a pause in the proceedings.)

13 THE COURT: Why don't we take a five minute break
14 while we wait for him.

15 (WHEREUPON a recess was observed.)

16 THE COURT: Are you ready to call your next
17 witness?

18 MS. TURNER: The petitioner calls Mr. Tyler.

19 THE COURT: All right. Mr. Tyler, come forward and
20 place Mr. Tyler under oath, please.

21 THE CLERK: Have a seat and state your name for the
22 record, please.

23 THE WITNESS: Randy Scott Tyler.

24 ///

25 ///

Randal S. Tyler - Direct Examination by Ms. Turner

1 DIRECT EXAMINATION

2 BY MS. TURNER:

3 Q All right. Mr. Tyler, I'm going go ahead and get a
4 little bit of house keeping out of the way as far as my
5 representation to you. You are aware, are you not that I
6 was formally an assistant attorney general and worked in
7 the post conviction relief section?

8 A Yeah.

9 Q We have talked about that?

10 A Yeah, we discussed that, yes.

11 Q Are you fine with me being your appointed --

12 A Yes, ma'am.

13 Q -- attorney.

14 A I have no -- there's no conflict there.

15 Q Okay. As your attorney, have I done what you
16 needed me to do? There's been a lot of hold up in this
17 case because you have an action against -- or you had an
18 action against the department of corrections because they
19 threw away a lot of your legal materials and I was involved
20 at least partially in trying to gather and recreate some of
21 those documents for you. I know that they had a whole
22 different investigator at the prison who was also making
23 efforts at that.

24 Are you satisfied with your file at this point and
25 the materials that you have?

Randal S. Tyler - Direct Examination by Ms. Turner

1 A Yes. If I may, she was appointed to me sometime
2 after I filed my PCR. I believe it was in March or May of
3 2007. I had a federal case, so they sent me to Michigan
4 and when I come back, she was -- she was appointed to me;
5 and, of course, I had went through the lawyers desk top and
6 learned that she was an ex-attorney general, but she has
7 been -- she's been -- she's been outstanding to help me
8 since. She's been representing me since 2007. I have no
9 conflict, none. And I have, I believe, the relevant
10 materials to go forward. I just ask for a little leeway, a
11 little narrative, I will be relevant and very to the point.

12 THE COURT: Well, you answer her questions. I'm
13 not going to just let you talk. You answer her questions.

14 THE WITNESS: Right. Right. Right.

15 BY MS. TURNER:

16 Q Mr. Tyler, I'm going to go a little bit out of
17 order here given the order that we've called our witnesses,
18 if that's all right with you. I'd like to talk about with
19 pictures --

20 A Yes, yes.

21 Q -- that came into evidence first.

22 MS. TURNER: May I, Your Honor?

23 THE COURT: I'll give you blanket permission.

24 MS. TURNER: Thank you because I keep forgetting to
25 ask.

Randal S. Tyler - Direct Examination by Ms. Turner

1 BY MS. TURNER:

2 Q All right. I'm going to hand you the petitioner's
3 exhibits 1 through 8.

4 A Uh-huh.

5 Q Now, we're alleging ineffective assistance of
6 counsel in several aspects, Mr. Tyler. Regarding --

7 A There's one more folder over there.

8 Q I'm sorry?

9 A There's one more photo over there, there's another
10 photo.

11 THE COURT: There's another folder over there.

12 THE WITNESS: Right.

13 BY MS. TURNER:

14 Q I believe those are all the ones that have been --

15 A Okay. I see what your saying, these are the ones
16 that are --

17 Q That we've entered today.

18 A Okay.

19 Q And the photo copies are of pictures that were
20 entered into trial.

21 A Okay, I see, I see.

22 Q And there are also color photos of pictures that
23 were entered at trial.

24 A Okay.

25 Q Have I got them matched up?

Randal S. Tyler - Direct Examination by Ms. Turner

1 A Uh-huh.

2 Q Okay. Regarding the pictures that were entered at
3 trial as State's Exhibits 18, 19, and 20, can you identify
4 those for me?

5 A Yes. Yes. What it is, is these photos --

6 Q No, I want you to -- so the record will be clear --

7 A These are the photos that Vicki Hallman testified
8 that she took on July 23rd, approximately ten days after I
9 was arrested.

10 Q Okay. Those are the ones that came in at trial?

11 A Those are what she testified to, yes.

12 Q Okay. Now, do you remember when those photos were
13 taken?

14 A I know exactly when these photo's were taken.

15 Q Okay. Tell the Court when those photos were taken.

16 A These were not taken ten days after I was arrested.
17 These were taken the day -- I mean, these were taken the
18 day I was arrested. This is -- this is fingerprinting on
19 my fingers, on my hands.

20 Q And you're referring to a color photo and that is
21 our Exhibit No. 3?

22 A Yes. These were taken the day -- what happened
23 was, when I got arrested, they were fingerprinting me and
24 of course you see a little injury. When the ink hit my
25 hand I said, Ow. Well, the detective that does the

Randal S. Tyler - Direct Examination by Ms. Turner

1 fingerprinting, he said don't move. Folsom -- Detective
2 Folsom come with a camera and he took this picture of me
3 and then he stepped me back and he took this picture of my
4 hands.

5 Q Okay. And that was not Ms. Hallman?

6 A No.

7 Q And it was not on the 23rd?

8 A No..

9 Q Okay. The two photos that we've entered as
10 Petitioner's Exhibits 1 and 2, are those photos of your
11 hands?

12 A Yes.

13 Q Do you remember --

14 THE COURT: Sir, you cannot discuss with her -- she
15 can ask questions, but I'm not going to let you have a
16 conversation about what her next question is.

17 THE WITNESS: No, I was just telling her I need
18 that other photo, because it's going to go to prove the
19 truth of the matter asserted.

20 THE COURT: She's the attorney. She'll ask the
21 questions. If y'all need to confer, I'll let you go back
22 there and --

23 THE WITNESS: Okay.

24 THE COURT: And prepare your testimony.

25 THE WITNESS: Okay.

Randal S. Tyler - Direct Examination by Ms. Turner

1 THE COURT: Not on the stand.

2 BY MS. TURNER:

3 Q Are those two photos also of your hands that you --

4 A Yes.

5 Q Do you remember when those photos were taken?

6 A Those are the pictures that Vicki Hallman took on
7 July 23rd.

8 Q Okay. And do -- are those -- do those photos
9 depict your hands as being in the same condition --

10 A No.

11 Q -- as the ones that came in at trial?

12 A No.

13 Q Okay. Were you -- do you know whether or not
14 Mr. Bolt, who was representing you at trial had access to
15 these pictures before trial?

16 A Yes, yes, he did. I told him the day that they
17 showed this picture and Ms. Hallman, the photos that came
18 in at trial --

19 MS. MAY: Excuse me, just so the record is clear,
20 can you state when you saw this picture.

21 THE COURT: Yes. That he's --

22 THE WITNESS: I was trying to look for it.

23 Petitioner's Exhibit 3 that was submitted at trial as Vicki
24 Hallman taking on the 23, when they showed the photo at
25 trial, I had told Dennis, look, that's not true. They had

Randal S. Tyler - Direct Examination by Ms. Turner

1 took the pictures when I got arrested and then ten days
2 later, she shows up and she wants to take pictures of my
3 hands. And she says -- I hold my hands out and she says
4 what am I taking a picture of. I said, I don't know.
5 Detective Folsom was behind her. He said just take a
6 picture of his hands. So I had told them that at trial and
7 he said Randy, you don't got the pictures. You can't prove
8 it, so you can't say it. So I couldn't say anything.

9 Q Okay. Do you -- you think that Mr. Bolt should
10 have objected to the photos?

11 A Yes.

12 Q On the grounds that they were presenting photos as
13 being taken on one day when they were actually --

14 A The photos were switched.

15 Q Okay.

16 A These photos never came in. These were moved up.
17 And what made it so prejudicial and had a substantial and
18 injurious effect was in the closing argument, the
19 prosecution relied on these photos, saying -- well, if I
20 may? May I go to the transcript?

21 THE COURT: Yes.

22 THE WITNESS: The photos were switched. May we --
23 may I enter the other photo.

24 THE COURT: Not at this point in time. Your
25 attorney can move for that, but at this point, you've got

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1 to follow the lead of your attorney. She's supposed to be
2 in charge.

3 THE WITNESS: Right.

4 MS. TURNER: Your Honor, I'm sorry, may I have a
5 moment with my client?

6 THE COURT: You may.

7 MS. TURNER: Thank you.

8 (WHEREUPON the petitioner and his attorney were
9 conferring.)

10 (WHEREUPON the attorneys were conferring over an
11 exhibit.)

12 THE COURT: Any objections?

13 MS. MAY: I object. I don't see how it's relevant.
14 It's a picture of his face not of the knuckles.

15 THE COURT: It has nothing to do with this. It's
16 irrelevant.

17 MS. TURNER: Your Honor, just on behalf of Mr.
18 Tyler, his argument is that this picture as compared to the
19 picture that Ms. Hallman testified was taken at the -- ten
20 days after his arrest depicts his hair being different --

21 THE COURT: I don't know that because, see, I'm
22 looking at that picture, I'm looking at this picture. It
23 looks like different backgrounds. I don't know that.

24 MS. TURNER: And --

25 THE COURT: Therefore, I'm not going to allow it.

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1 Thank you.

2 MS. TURNER: Yes, sir.

3 BY MS. TURNER:

4 Q Mr. Tyler, the pictures that are in evidence, they
5 were taken at different times, yes?

6 A Yes, they were.

7 Q They are taken by different people?

8 A Yes, they were.

9 Q And you feel that Mr. Bolt should have objected to
10 that as you expressed to him at trial because it was
11 prejudicial to your case, yes?

12 A Yes.

13 Q Please tell the Court how it was prejudicial. What
14 renders that prejudicial?

15 A Well, this is fingerprinting -- this is Exhibit 3
16 that Ms. Hallman testified she took ten days later. It's
17 fingerprinting, when it actually -- what it is, the clear
18 pictures, Petitioner's Exhibit 1 are the actual photos that
19 Ms. Hallman took. These were not introduced at trial.
20 They were set aside. These were moved up -- Petitioner's
21 Exhibit 3 was moved up and she testified that she took this
22 picture ten days later.

23 Now, it's actually fingerprint ink on my hands, but
24 in the event that -- the way it was presented to the jury,
25 the prosecution in closing, on page 365, line 9 through 13,

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1 he says, this indicates -- and Mr. Swarat is waiving the
2 picture, he says this is ten days after the crime scene,
3 ladies and gentlemen, and they had a chance to heal quite a
4 bit. Does it look like somebody's fingernails scraped
5 across his knuckles? Well, he was so hell bent to get that
6 money.

7 Then he goes into which version do you believe. He
8 used this picture against me, when this picture was taken
9 the day I was arrested. It was not taken ten days after.

10 BY MS. TURNER:

11 Q Okay. And he used it to stress the basic --

12 A To try to make it look like I was beating --

13 Q -- beating the ceiling?

14 A Or the victim. Because that was one of their
15 theories as well.

16 Q Because it was taking so long to heal from the way
17 that the prosecution presented it; and therefore, you feel
18 it was prejudicial -- it was untrue and Mr. Bolt should
19 have objected to it?

20 A Yeah.

21 Q Okay. All right. One of your issues is that
22 Mr. Bolt was ineffective for failing to object to highly
23 prejudicial opinion testimony from the State's witness who
24 had not been qualified as an expert by the trial Court.
25 That is Ms. Vicki Hallman; is that right?

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1 A Yes, ma'am.

2 Q Her testimony, did it not, included testimony
3 regarding blood evidence, particularly blood splatter
4 evidence?

5 A Yes.

6 Q She's already testified that she was not qualified
7 as an expert on the day of your trial and that is an issue
8 you feel Mr. Bolt was ineffective in failing to object to;
9 is that right?

10 A Yes.

11 Q Okay. Do you have in your notes or your
12 recollection of approximately how many times Ms. Hallman
13 was allowed to testify to blood evidence or blood splatter
14 evidence without any objection being raised?

15 A Forty-eight.

16 Q Okay. And you feel that was prejudicial to your
17 case?

18 A I believe the testimony was extremely prejudicial.
19 Every time that she walked them through the crime scene,
20 every time that they would come to blood, the prosecution
21 asked her if she could explain -- they were talking about a
22 bar stool on page 100, line 17 through 21. She says most
23 definitely, especially right here at the entrance. There
24 is one over-turned bar stool with a pool stick laying
25 beside it, and there is another upright bar stool that has

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1 90 degree blood splatter on it.

2 Well, excuse me, back to page 98, when they were

3 walking her through the blood, blood here, blood there.

4 Any time it came to blood, they would have her testify

5 whether it was transferred or whether it was splattered.

6 She wasn't qualified to give expert testimony and her

7 testimony kind of went to the heart of the case. The

8 prosecution on page 98, line 18, asked her, Could you tell

9 if it was transferred blood or 90 degree blood. She said

10 it's transferred blood.

11 He said, Well explain to the jury what that means.

12 And then she goes into trying to explain what it means,

13 what blood splatter is.

14 The prejudicial part of it was -- it was -- there

15 was a lot of things that weren't blood that she was allowed

16 to testify to and they did it in a prejudicial manner. On

17 page 109 on line 15 through 21 -- or 19, I'm sorry. Mr.

18 Swarat asked her, Did you note any damages to these

19 eyeglasses when you recovered them. She said these eye

20 pieces or nose pieces are bent up slightly and there

21 appears to be some type of stain that would possibly be

22 blood.

23 Line 20, he says, Could I show these to the jury.

24 Well, he shows them to the jury, then in his closing

25 argument, he puts these glasses on and parades around the

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1 jury trying to paint a picture like this is blood and there
2 was a lot of things in her testimony that they don't know
3 if it was blood. They picked and chose what they wanted
4 to -- what they wanted to place before the jury. But when
5 it came to the blood that they said was mine, this alleged
6 knuckle mark -- let me find it -- here we go. On this
7 alleged knuckle mark on page 115, line 7 to 11, she says,
8 And located right here at the entrance of the poolroom, you
9 can see there are several little areas that are dented.
10 They basically would match up with somebody who slammed
11 their fist and made these knuckle marks.

12 The prosecution -- once you come over to page 116,
13 they start talking about the State's Exhibit 14. They take
14 these ceiling tiles in. Her testimony comes down and they
15 talk about the damaged ceiling tile and they found -- they
16 found one speck of my blood in the ceiling, but it was
17 never determined whether it was splatter or blood -- I mean
18 transferred. She wasn't qualified to give that, but if it
19 was transferred -- if they could have proven it was
20 transferred that would have supported the State's theory
21 that I was allegedly beating on the ceiling tile like they
22 said. If it was splatter, then it supports my theory that
23 it could have -- when we -- when we got ordered into the
24 house, it could have flew up there, but we don't know
25 because she wasn't qualified to give this kind of

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1 testimony.

2 But it was never established and Mr. Bolt never let
3 me put my hands to match -- because I kept saying I didn't
4 hit the ceiling. They never let me match my hands up to
5 these ceiling tiles. The Michael Jackson glove, if you
6 will, but they're trying to allege I did this and I didn't
7 do it.

8 Q Okay. And do you -- you feel that there should
9 have been an effort to obtain a blood splatter expert?

10 A Well, I would say yes, but not on that ground. If
11 you look at her complete testimony is blood, blood, blood,
12 blood, blood, blood, blood, blood. But they pick and
13 chose. What I'm saying is her testimony was very
14 prejudicial because they pick and chose what they wanted to
15 place. They didn't test all the blood in the house. When
16 it came to my blood, what the jury wasn't told was that --
17 it was just a speck -- it was a little stain, it wasn't
18 even -- there was nothing left for them even test. So it's
19 very -- with what actually happened is very, very
20 inconsistent with the State's theory of these ceiling
21 tiles. I didn't beat on the ceiling tiles.

22 Q Do you have a -- do you have any sort of report
23 that you want to be considered in evidence regarding the
24 blood splatter that was found on the ceiling tile?

25 A Yes, I do. Briefly, what had happened is after I

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1 got locked up, I wrote SLED for their files and -- because
2 I just knew I didn't commit this crime. SLED wrote me back
3 and I obtained the file myself. Mr. Bolt apparently never
4 had it. None of these court documents were even used at my
5 trial. But on the knuckle mark, it says no visible stain.
6 Very weak. There was no sample even left. Very weak.
7 It's just very inconsistent with beating on the ceiling
8 tile as Mr. Swarat emphasized to the jury. And like I
9 said, when it came to the ceiling tiles, Vicki Hallman
10 said, Whoever slammed their fist in there, their knuckles
11 would match up.

12 Q Okay.

13 A I was never allowed to put my hand in there. I'd
14 said I didn't do it, so if my knuckle hand don't match --

15 Q All right. Is this a -- well, I'm going to show it
16 to the assistant attorney general.

17 MS. MAY: I have no --

18 THE COURT: Any objection Ms. May for the purpose
19 of this hearing.

20 MS. MAY: No objection.

21 THE COURT: Okay.

22 BY MS. TURNER:

23 Q And these are department of forensic serology and
24 DNA analysis from South Carolina Law Enforcement Division
25 and they're dated 11/19/2002; is that correct?

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1 A Yes.

2 Q Okay.

3 THE COURT: Without objection, they're admitted
4 into evidence as --

5 MS. TURNER: Okay.

6 THE COURT: Plaintiff's (sic) exhibits what?

7 THE COURT REPORTER: 10 and 11.

8 (WHEREUPON Petitioner's Exhibits 10 and 11 were
9 marked for evidence.)

10 BY MS. TURNER:

11 Q Are those documents that you discussed with
12 Mr. Bolt?

13 A Mr. Bolt didn't have those. I -- I wrote SLED this
14 letter after I was sent to prison and I tried to obtain
15 my -- I had to obtain my case file. I had to buy it
16 myself. I paid for it with my own money.

17 Q Okay. Is this information that you feel would have
18 assisted you in the defense of your case?

19 A The complete SLED file would have, yes. As we go
20 through the ballistics and all, yes, very --

21 Q You think it would have had some impact for the
22 jury to see that the sample that the State has noted to be
23 very weak?

24 A It would clearly discredit the State's theory.

25 It's -- one speck of blood is very inconsistent with the

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1 prosecution closing and theory.

2 Q Okay. And you feel like that the weight of that
3 would have been -- if Mr. Bolt would have obtained the SLED
4 file prior to your trial?

5 A Well, of course, this was a homicide.

6 Q Okay. Is there anything else you want to tell the
7 Court as far as the blood evidence or are you ready to move
8 to your next issue?

9 A Well, in her testimony, she was -- let's see, she
10 testified earlier that -- she testified earlier that --

11 THE COURT: Hold on, are you going to ask him a
12 question.

13 MS. TURNER: I am.

14 BY MS. TURNER:

15 Q I just mean aside from the fact that she was not a
16 qualified expert and she was allowed to give un-objected to
17 testimony, and the fact that the SLED analysis of the DNA
18 that we just presented was not presented either to the
19 Court or the jury?

20 A Right.

21 Q Is that it?

22 A Yes, with that issue, yes.

23 Q Okay. Another issue that you have is that Mr. Bolt
24 was ineffective for failing to object to the prosecution
25 impeaching your exculpatory version of events that were

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1 told the first time at trial and essentially that your --
2 that Mr. Swarat or the prosecution being allowed to
3 question you as to your silence without your lawyer
4 present, without objection from Mr. Bolt constituted
5 ineffective assistance of counsel?

6 THE COURT: What was the question again? That was
7 a long statement, is there a question in there?

8 MS. TURNER: I'm sorry, I was just introducing the
9 issue, Judge.

10 THE COURT: Well, you need to ask questions.

11 MS. TURNER: Okay. Thank you.

12 BY MS. TURNER:

13 Q Was there a point in your trial when the
14 prosecution was allowed to ask you what you feel were
15 prejudicial questions regarding statements that you made
16 for the first time at trial?

17 A Yes. What it was is I -- I invoked my right to
18 remain silent. And page 64, line 7 through 25, let me go
19 over there.

20 Let's see. Okay. Right at line 20, Mr. Friar says
21 at that particular time, he indicated he did not want to
22 make any statement, he wanted to consult with a lawyer.
23 And the question was had he been advised his rights?

24 Answer: Yes, he was advised of his rights, what the
25 charges were, some cursory information about what we had.

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1 And the charges on him developed and the fact that he had a
2 right to talk to an attorney. And he indicated he wanted
3 to exercise that right and that's when Mr. Friar said,
4 that's correct.

5 If you'll refer to page 299 of the transcript.

6 Q 299? All right. And this is cross-examination
7 with Mr. Swarat conducting the cross-examination of your
8 testimony; is that correct?

9 A Yes, ma'am.

10 Q Okay. Tell me what happens at page 299?

11 A Line 9 through 12, during my testimony, Mr. Swarat
12 asked me, the first thing you do when you talk to Detective
13 Friar, you don't tell him the story you just told this jury
14 and he let you talk to him as long as you wanted to, didn't
15 he?

16 I said, Well, the first time I talked to him was
17 when Gene Fry and me walked in. We sit down, Gene sat to
18 my left. Friar come in and said, I wish you'd waive your
19 rights and talk to me like a man. I said, I don't have
20 anything to say to you. This is murder. It's very
21 serious. I said, Get my lawyer up here and I'll talk to
22 you.

23 Mr. Swarat said, you didn't say I'm afraid of
24 Travis; you're not going to believe what Travis did. My
25 answer was I didn't say any -- nothing. Mr. Swarat asked

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1 he, he said, and he hurt my friend Corky. I want to tell
2 you what happened because Travis did a horrible anything.
3 You didn't say anything that Detective Friar did to you.
4 My answer was my lawyer wasn't present.

5 Then after I gave my testimony for the first time
6 because I elected my right to testify at trial after I had
7 remained silent prior --

8 Q Let me just stop you.

9 A Yes, ma'am.

10 Q Do you feel that during that portion of your
11 testimony, your counsel, Mr. Bolt, should have objected.

12 A Yeah, yeah, he should have objected because I
13 exercised my right to remain silent and he was kind of like
14 trying to pit me against Travis. He was trying to open the
15 door to make me talk about what Travis said, but I
16 didn't -- my lawyer wasn't present. He used my right to
17 remain silent against me. And the jury is going to infer
18 that as evidence of guilt based on his closing argument
19 when he used against me.

20 Q Okay. And if you'll refer to page 364 and 365 of
21 the transcript. Do you feel that Mr. Swarat was allowed to
22 do the same thing in closing argument, again, without
23 objection?

24 A Yes, unbridled. Line 11, Mr. Swarat says, on page
25 364, line 11, Mr. Swarat says now, I didn't expect him to

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1 go in. I expected him to do all this other stuff, but I
2 did not expect him to attack Detective Friar. 19 years of
3 experience in law enforcement. He's the head of major
4 crimes division. He done more things for his community
5 than some of us will do in a lifetime. He wants to go
6 after him and say he didn't treat me fair. He wants to
7 blame it on law enforcement, blame it on Travis, blame it
8 on circumstances. He'll probably blame it on all us one
9 day too. What do you really want the believe? What do you
10 want to really believe? What do you believe -- well the
11 truth about the DNA from Randy's blood.

12 Now, he has got to come up with some kind of
13 explanation for that. So he's explaining that he falls.
14 What did Detective Friar tell you? The first time I heard
15 that story was today. The first time Detective Friar heard
16 anything like that. Don't I think it would have been
17 important if it were the truth? Don't you think that would
18 have been important?

19 He's -- he -- that's an extremely prejudicial
20 argument in front of a jury after I've elected my right to
21 stand silent and then I take the stand and I give my
22 exculpatory statement for the first time at trial and he
23 used my right to remain silent against me. I firmly
24 believe that that was very prejudicial.

25 Q And as set forth in your brief --

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1 A Well, yes --

2 Q -- as a violation of a Doyle issue?

3 A Oh, it's a Doyle issue, yes.

4 Q Okay. Regarding ineffective assistance or the
5 allegation of ineffective assistance for failing to object
6 to the prosecution's improper closing, which included
7 misquotes of law, lying to the jury about rules and placing
8 highly prejudicial remarks of misquoted evidence that
9 resulted in prosecutorial misconduct and denied a right to
10 a fair trial. In the scope of this PCR, of this post
11 conviction relief, referring specifically to the testimony
12 that starts at line 24 and 25 of page 303 -- and this is
13 when Mr. Swarat is questioning you regarding what Travis
14 had said in a statement. Is it your contention that
15 Mr. Bolt should have objected to this line of questioning?

16 A Yes, on the grounds of -- well, he had objected --
17 what had happened was, Travis's statement did not come into
18 my trial. What had happened was, they'd lifted one piece
19 of Travis's statement that the car was hidden -- I mean
20 that the car was up parked by the road. The prosecution
21 was allowed to object that it was hidden. It was never in
22 Travis's statement. The whole statement didn't come in,
23 just the one little piece of the statement and that was the
24 issue that was brought up on appeal, based on the
25 confrontation clause. But what's prejudicial about this is

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1 he's asking me why would Travis say these things. I don't
2 know what Travis said.

3 Q And -- he's making it sound as though Travis has
4 made some admissions against both of your interests and
5 stressing that to the jury.

6 A Yes.

7 Q And you are repeatedly saying, I don't know what
8 Travis said, where is Travis.

9 A Line -- on the top of 303, line 24, he says oh,
10 Travis just says it about himself to make him look worse.
11 I guess that's what you're telling this jury. On line --
12 page 304, line two, I said, I don't know where Travis is.
13 I don't know what Travis said. Where is Travis.

14 He said, Well, Travis can be tried in two months,
15 Mr. Tyler. Mr. Tyler, you know he's charged with murder,
16 just like you are. I said I haven't heard anybody. He
17 said, I can't explain how that blood got in the ceiling on
18 those knuckle marks can you. Again back to the little
19 speck of stain, but he was actually -- he's pitting me
20 against somebody who he is not even -- there's nothing I
21 can say because I don't even know what he said.

22 Q And within the contexts of these proceedings, he's
23 doing so without an objection --

24 A He ran unbridled.

25 Q -- your attorney?

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1 A This closing argument was one of the worst that
2 I've seen, ever.

3 Q All right. And refer you to page 353.

4 A Well, yes -- may I start at 352?

5 Q Certainly?

6 A Line 18. In his closing, Swarat tells the jury, he
7 says -- first he says, let's back up to line 12. He says,
8 when asked about jury service many years ago down the road.
9 He says jury service is the highest form of service you can
10 give your community in peace time and that's just short of
11 putting your life on the line against a foreign enemy.
12 Jury service is the highest form of service that you can
13 give because you're putting yourself on the line against
14 those domestic enemies, these people that walk among us,
15 ladies and gentlemen, that won't follow the law, dope
16 dealing murdering and thieving. Okay, thieving thugs like
17 Travis Harsey on that and Randal Tyler too.

18 He's putting the jury against me. And he did it in
19 an extremely prejudicial manner. At the trial it looked
20 like he was trying to land a plane and it was extremely
21 prejudicial.

22 Q And your contention is that he was encouraging the
23 jury to place itself in the shoes of a victim or a
24 violation as the golden rule?

25 A Well, yeah, because the jury is sworn to weigh the

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1 evidence neutrally and regardless of how it's used, when he
2 put them in the shoes, he told them that they're against
3 me.

4 Q Okay.

5 A And that's -- they depart from the neutrality of
6 that when he done that.

7 Q And within the context of these proceedings, is it
8 your position that Mr. Bolt should have objected?

9 A Yes.

10 Q To that line of questioning?

11 A Yes, to that statement, yes. And here, you'd asked
12 Swarat about it on page 353, line 5 through 15, he says
13 ladies and gentlemen, he said, The jury is going to hear
14 about Travis Harsey. I want to bring something up the
15 judge told you at the start. We've got rules to follow.
16 There are rules that prevented us from putting Travis
17 Harsey in the case this week. And Mr. Tyler, I'm not even
18 allowed to explain to you what the rules are, if you want
19 to ask me after the trial is over, I'd be happy to explain
20 it to you. That's a shell game, a smoke screen. I wasn't
21 allowed to do it.

22 He says, I will deal with Travis Harsey. That -- I
23 was tried separately. Cases are tried joint and several
24 every day. I don't understand -- that was a misquote of
25 law. I don't understand what rule he's speaking of. He

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1 told the jury there was a rule that prevented him from
2 trying me and Harsey together.

3 Q And in your opinion, it's your contention that
4 Mr. Bolt should have objected to that --

5 A He should have objected, yes.

6 Q -- basically it was impermissibly bolstering the
7 State's case?

8 A Well, and it was a misquote of law. There is no
9 rule. There is no rule to prevent co-defendants from being
10 tried double.

11 Q Okay. Okay. Refer with me to page 356, line 14
12 through 20?

13 A Okay. Well, 355, he's -- 355.

14 THE COURT: Please be responsive to your attorney's
15 questions.

16 THE WITNESS: Okay. Okay.

17 THE COURT: She's going to control your direct
18 testimony.

19 THE WITNESS: Okay.

20 BY MS. TURNER:

21 Q Okay. What -- I what I want you to refer to you
22 now, is 356, lines 14 through 20?

23 A Yes, ma'am.

24 Q I believe that what Mr. Swarat is arguing here is
25 what's Travis Harsey got by the time he's out there? Mask

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1 and gloves and don't tell me didn't know that gun was
2 there. He wants you to believe that Mr. Tyler over there
3 didn't know that gun was there. That's an insult to your
4 good common sense. That's an absolutely insult to your
5 intelligence. It's your contention that line of argument
6 was improper?

7 A He was -- when he's talking about if he wants you
8 to believe that, he's talking about Mr. Bolt during
9 Mr. Bolt's closing argument. If you back up a little bit,
10 he talked about -- he's talking about bolt here. He says
11 if he wants to believe that Mr. Tyler over there didn't
12 know that gun was over there, that's an insult to your
13 common sense. That's an insult to your common sense. The
14 mask and gloves were riding together in that car and Randy
15 has changed his clothes. That's not supported by the
16 evidence. Nobody ever said I changed my clothes.

17 Q Okay.

18 A He told the jury pretty much they were ignorant if
19 they believed him. It was an insult to -- that's a very
20 prejudicial statement to a jury, to tell them that my only
21 sole defense is an insult to their good common sense, an
22 insult to their intelligence and he did it again.

23 Q I believe that you would be referring to pages 357,
24 lines 20 through 25, page 258, one through 11 and 365 --

25 A 257 where?

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1 Q I'm sorry. 357, line 20 through 25?

2 A Yeah. The prosecution says let's boil it down to
3 what you have to believe to find Randy Tyler not guilty of
4 these crimes. You would have to believe every word that
5 come out of Randy Tyler's mouth from the witness stand to
6 believe he's not guilty. If you just believe him in any
7 way whatsoever, he's guilty of it all. You would have to
8 believe everything Randy Tyler as told you. That's your
9 choice if you want to believe dope dealing, conspiring
10 with thugs, Randy Tyler, that's your choice. We don't get
11 a second shot at this, if you find him not guilty, he walks
12 out of here, the courtroom no punishment, no charge, it's
13 over. We don't get a second chance -- we don't get a
14 chance to appeal your decision, that's why it's so
15 important. That's why I'm so passionate. I want to make
16 sure that you understand the truth before you leave this
17 courtroom.

18 That's another misquote of the law. The jury
19 doesn't have to believe everything that I say. All's they
20 have to have is reasonable doubt about any element of the
21 offence alleged. It's a misquote of law. He told them
22 they have to believe everything that I said in order to
23 find me not guilty. That's not right. That's another
24 misquote of the law.

25 Q Okay. And --

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1 A And he told them he wanted to make sure they
2 understood the truth before they left the courtroom. There
3 was so much left out of this trial -- page 355, line 1
4 through 4, the prosecution says, I'm mad at Corky. I'm mad
5 at Corky about money. I'm not real happy with my brother
6 Matt. It is probably sanitized in the police report a
7 little bit. That dam Corky, he owes me money. He's got my
8 money, I'm going to get my money. He and Matt, they're
9 doing dealings around behind my back. They're cutting me
10 out of this money. I will get my money.

11 Those statements are not supported by the evidence
12 that was presented at trial. And when he argued about the
13 sanitizing of the police report, he's arguing, well, things
14 that the jury doesn't have before them. The police reports
15 were never entered into my trial.

16 Q And so those statements were evidence or presented
17 as facts by the prosecutor in closing without objection
18 when they weren't, in fact, facts in the record?

19 A Well, he put the integrity of the State behind him
20 by his statement, he's telling them he knows something that
21 they don't know and that's extremely prejudicial because if
22 you look at the police reports, the police reports don't
23 even uphold the evidence that was was admitted at trial.
24 Mr. Bolt, if you will, after I was sentenced and -- found
25 guilty and sentenced, Mr. Bolt even --

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1 MS. MAY: Your Honor, if I may, there are six
2 specific passages that Mr. Tyler has highlighted in his
3 amended application for post conviction relief and I think
4 we're going past --

5 THE COURT: We need to stick with what he's put
6 them on notice that he's -- you can't consider everything,
7 the kitchen sink.

8 THE WITNESS: It is one of my issues.

9 THE COURT: I'm talking to your attorney. Please
10 direct your questions in that direction and take charge of
11 this.

12 MS. TURNER: Yes, sir. And thank you, Your Honor.
13 On Mr. Tyler's behalf, I would ask that anything that is
14 not orally argued today that is included in his brief be
15 included in the Court's consideration.

16 THE COURT: I'm going to do that, yes.

17 MS. TURNER: So that there's no --

18 THE COURT: I know he has a brief; but I'm looking
19 to the testimony here today.

20 MS. TURNER: Okay.

21 BY MS. TURNER:

22 Q In your application, one of your allegations is
23 that Mr. Bolt was ineffective for failing to object to the
24 solicitor's improper comments on malice that bolstered the
25 State's case and for failing to object to the trial court's

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1 malice instructions that in effect shifted the burden of
2 proof.

3 THE COURT: Now, the trial court's error would not
4 be an issue for today. That would be an issue on appeal.

5 MS. TURNER: Well --

6 THE COURT: Unless it's his failure to object.

7 MS. TURNER: That's --

8 THE COURT: That was your question there --

9 MS. TURNER: Yes, Your Honor. That's the issue
10 that's presented in his post conviction relief application
11 is counsel's failure to object when the solicitor's
12 comments on malice as well as failure to object to the
13 trial court's malice instructions.

14 BY MS. TURNER:

15 Q Mr. Tyler, if you could -- I believe that the first
16 references pages 330 --

17 A We missed just one part of my last issue.

18 Q I'm sorry, what point --

19 A Because he told me to stick to the brief.

20 THE COURT: No, I don't say stick to the brief. I
21 said stick to the questions that your attorney asks you.

22 THE WITNESS: Okay. It was part of my -- it was
23 part of my issue.

24 BY MS. TURNER:

25 Q And, again, Mr. Tyler be reminded that the Court

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1 has agreed anything that's in your brief, it's preserved?

2 THE COURT: Well, I'm going to read the brief, but
3 I mean I'm not taking it into evidence. It's not evidence.
4 It's just his contention as to what the evidence shows.
5 It's not evidence.

6 MS. TURNER: Yes, sir.

7 BY MS. TURNER:

8 Q Specifically mentioned here is 365?

9 A Yes.

10 Q I believe that's the passage that you're referring
11 to, Mr. Tyler. Mr. Swarat says, Which version do you
12 belief, ladies and gentlemen? We ask for the truth. I
13 will never ask you for anything more. Please don't give us
14 anything less to believe his story is an insult to your
15 common sense. I'm not going to sit there and do that to
16 you. It's your contention he should have objected to this
17 line of art as well?

18 A Yeah, the prosecution's closing. When I prepared
19 this, there were so many errors in the prosecution's
20 closing that I had alleged that I would give testimony in
21 support there to walk through them because there is --
22 there's quite a few. Yeah, he was -- when you look at
23 the -- that I exercised my right to remain silent and he
24 used it against me and then to come back the first time I
25 tell my story and in the closing argument he's telling them

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1 that to believe my story is an insult to their common
2 sense. That's -- the entire closing was so prejudicial, it
3 nullified the jury without a doubt.

4 Q Okay. I want you to refer to the portion of the
5 closing that Mr. Moses --

6 A Uh-huh.

7 Q -- performed. There -- you have an allegation that
8 Mr. Moses presented as facts, facts that were not in
9 evidence; is that correct?

10 A Yes, he mischaracterized the evidence.

11 Q To -- to what extent?

12 A He vouched for something that wasn't even --

13 Q Okay. Tell me exactly what. Tell me what he said,
14 tell me what happened?

15 A Well, what happened, he said, Mr. Tyler's
16 uncle-in-law next door. He had no reason -- that's
17 Mr. Williams, James Williams who testified at trial. Page
18 326, lines 1 through 7.

19 Q Okay.

20 A He said a next door neighbor, he got up here -- he
21 had no reason to get up here and lie to you. He got up
22 here and told you that he gave Randy a ride to Travis
23 Harsey's house and on the ride over there, Randy told James
24 Williams, I'm mad at Corky. I'm mad at Corky Lewis over
25 money and drugs. He told James Williams that. James

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1 Williams had no reason to make that up. The problem with
2 that is James Williams never said anything about drugs.
3 That was mischaracterization of evidence and --

4 Q Now, could you refer the Court to Mr. Williams'
5 testimony at trial?

6 A Yes, I will. Page 151 of James Williams testimony,
7 line 1, he says Randy told you on the way up there he was
8 going to Travis -- he was going with Travis to Corky's.
9 Yes, sir. About the money? Well he didn't specifically
10 say about the money, but he had a fishing trip planned.
11 Did you ever tell the police anything about the fishing
12 trip? I don't recall. Will looking at your statement
13 refresh your memory?

14 Jimmy had said that I made a comment that I was mad
15 at Corky over some money. He never said anything about
16 drugs. The drugs came in through Mr. Bolt. Mr. Bolt was
17 the one that injected prior bad acts into the trial.

18 Q Okay. And so when either of the prosecutors refer
19 in closing arguments to Jimmy having said that -- well,
20 Randy's -- from what Mr. Williams testified to, Randy was
21 mad at Corky about drugs, that simply -- that testimony
22 was --

23 A It doesn't make sense. Jimmy never said that. And
24 what makes it so prejudicial was -- like I said, Mr. Bolt,
25 through Donna's testimony injected prior bad acts. He was

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1 the one who brought the drugs into the trial. If I may,
2 187, during Donna's testimony, Mr. Bolt said, he asked her
3 had she been in the drug --

4 THE COURT: What line, please?

5 THE WITNESS: I'm sorry, line 22. He asked Donna,
6 had they been in the drug business together. She said, I
7 guess maybe if you want -- you can say that if you want.
8 Okay. Well, when I take the stand let's see, give me one
9 second. When I take the stand, page 285, line 24 through
10 25, Mr. Bolt asked me, now, at any time did you ever agree,
11 plan with, plot with Travis to rob or kill Corky. Of
12 course, I said no. But now he's injected robbery and he's
13 injected drugs into a homicide. I'm not on trial for the
14 drugs and I'm not on trial for the robbery. But what this
15 opens the door for is when Mr. Swarat cross-examines me on
16 line 299, I mean page 299, line 2 and 4, Mr. Swarat's asked
17 me, you wouldn't go to Corky's house and maybe try to rob
18 him for some money or maybe try to rob him for some drugs,
19 would you? That -- when Mr. Bolt injected the prior bad
20 acts and then brought the robbery in, now we have money and
21 robbery injected into a homicide that they ran rampant
22 through the closing argument and used this theory --

23 MS. MAY: Your Honor, I'm going to object. I don't
24 have any notice of a claim of prior bad acts being
25 injected.

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1 THE COURT: Sustained.

2 THE WITNESS: Well, see it's --

3 THE COURT: No. Next question. I sustained the
4 objection.

5 THE WITNESS: I see.

6 BY MS. TURNER:

7 Q Mr. Tyler, would you refer for me to Mr. Williams'
8 testimony, particularly the portion of Mr. Williams'
9 testimony where Mr. Swarat is asking him to refer to his
10 statement?

11 THE COURT: Page and line, please?

12 MS. TURNER: I'm sorry, Judge, I believe my
13 transcript is up here. I'm referring to page 159.

14 THE COURT: 169?

15 MS. TURNER: 159.

16 BY MS. TURNER:

17 Q Beginning on line 1, Mr. Swarat's question to
18 Mr. Williams starts with what Mr. Swarat presents to be a
19 quote from Mr. Williams' statement, quote, they got him.
20 Randy and Corky were arguing and Travis pulled out a gun
21 and shot Corky. Do you recall telling Detective Friar
22 that? And Mr. Williams' answer is I recall telling him
23 that Travis -- that Randy said Travis pulled out a gun and
24 shot Corky. I don't remember saying that they got him.

25 And is that testimony that you -- that you feel

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1 was, again, Mr. Swarat presenting facts not in evidence
2 that Mr. Bolt should have objected to?

3 A Well, yes. The problem is Swarat tells him, I'm
4 showing on line -- page 159, line 7 Mr. Swarat says I'm
5 showing you part of your transcribed reported statement and
6 ask if you recognize what's showing here. Jimmy says yes
7 that's what it says. Well, is that's what it says isn't
8 that right you denied telling the police that. Well, no,
9 if it's transcribed right there, I said it, but I don't
10 remember saying it, you know, that they said that they got
11 him.

12 I believe that Mr. Bolt should have entered the
13 tape. The tape is the best evidence rule. Who transcribed
14 the tape. Jimmy said he didn't remember saying that. He
15 said that he didn't say it. He said that, I said that
16 Travis pulled out a gun and shot him, but injecting that
17 they -- you know that they got him that's prejudicial in a
18 homicide.

19 Q Okay. At any point, did Mr. Bolt object to the
20 prosecution's characterization --

21 A No.

22 Q -- of Mr. Williams' --

23 A No.

24 Q -- statement. At any point to your knowledge did
25 Mr. Bolt make any attempt to request a tape of the actual

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1 statement.

2 A No.

3 MS. MAY: Your Honor, I don't have this subject. I
4 only have issues A through H, and then three in his
5 application.

6 THE COURT: What is -- did they have notice of
7 issue today?

8 MS. TURNER: It's ineffective assistance --

9 THE COURT: Well, you know, that's a pretty big
10 thing. We can't just go through the transcript and every
11 line that you think was ineffective that he can testify
12 about it. You need to stick with what they are on notice
13 for.

14 MS. TURNER: Well, Your Honor, I certainly think
15 they're on notice that Mr. Tyler's claim alleges that Mr.
16 Swarat and Mr. Moses alleged and argued facts that weren't
17 actually in --

18 THE COURT: Are they on notice of that?

19 MS. TURNER: Yes, sir, Your Honor.

20 THE COURT: Has that enumerated?

21 MS. TURNER: Yes, sir.

22 MS. MAY: I'm -- if you can wait a minute to look
23 at the --

24 THE COURT: Let me see it.

25 Okay. I'm going to let you go through everyone of

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1 them that are stated in here. I'm not just going to --
2 anything that y'all thing of at this point in time, y'all
3 bring up. If it's in his post conviction relief amended,
4 that has been amended, you may question him on that. But
5 they can't defend on stuff that they don't know is going to
6 be asked. So you've got to stick to your amended pleadings
7 just like you would any other civil case.

8 **MS. TURNER:** Thank you, Your Honor. I understand
9 Your Honor's instructions as well as the ruling of the
10 objection. I would proffer, Your Honor, Mr. Williams'
11 statement as transcribed by the Lexington County Sheriff's
12 Department.

13 **THE COURT:** Is that one of the issues that was --

14 **MS. TURNER:** Yes.

15 **THE COURT:** You may proffer.

16 **MS. TURNER:** As well as the audio tape that we
17 obtained from the sheriff's department.

18 **THE COURT:** All right. Thank you.

19 **BY MS. TURNER:**

20 **Q** Mr. -- I'm going to take you through the --

21 **A** That's fine. It is in there I will show you as we
22 go through this. I'm at issue E.

23 **Q** Issue E?

24 **THE WITNESS:** I apologize, Your Honor. Okay.

25 ///

Randal S. Tyler - Direct Examination by Ms. Turner

1 BY MS. TURNER:

2 Q Regarding failure to object to the solicitor's
3 improper comments on malice. What are the comments? What
4 are you alleging were improper comments as to malice?

5 A Page 329, Mr. Moses says in opening closing, line
6 8, says all we have to do is prove that there's malice.
7 Malice is ill will, hostility towards another human being.
8 It's as simple as that. Ill will hostility toward another
9 human being. Malice can be proven in a matter of different
10 ways. It can be inferred from the use of a deadly weapon.
11 You can infer malice by the use of a deadly weapon right
12 here. Malice can be shown through acts of preparation and
13 prior planning. Malice is a state of mind that shows that
14 a person is acting with dark evil heart.

15 If we prove malice, it's murder. Boom, we've got
16 murder. If we prove malice, malice is when somebody knows
17 what they're doing is an unlawful act. The jury could
18 clearly conclude that drugs -- because the intention that I
19 went to Corky's was to purchase drugs. They could infer
20 the unlawful act or conclude through a presumption that the
21 unlawful act was the drugs.

22 Q And it's your contention that under the facts and
23 circumstances of this case, Mr. Bolt should have objected
24 to that charge because --

25 A To that --

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1 Q -- that was an uncharged crime that did not under
2 these circumstances constitute malice?

3 A I wasn't on trial for drugs, but drugs came into my
4 trial and the jury could clearly conclude an unlawful act,
5 the drugs. He then goes onto say at line --

6 THE COURT: Does somebody have an extra copy of
7 the --

8 MS. MAY: An extra copy of the transcript?

9 THE COURT: No, I have the transcript. I need a
10 copy of the amended PCR.

11 THE WITNESS: You can have this one.

12 MS. MAY: Your Honor, I can run back and make a
13 copy real quick.

14 THE COURT: Why don't we take a ten minute recess
15 and come back.

16 MS. MAY: Would it just be the amended or the
17 memorandum in support.

18 THE COURT: I've got the memorandum, but what I
19 don't have is the amendment.

20 I need to remind you, you're on the stand. You
21 can't discuss anything with anyone.

22 But you may take him to the restroom.

23 (WHEREUPON a recess was observed.)

24 THE COURT: All right. You may proceed.

25 MS. TURNER: Thank you, Your Honor.

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1 BY MS. TURNER:

2 Q Mr. Tyler, we were on the issue of improper -- the
3 solicitor's improper closing comments on malice and as well
4 Mr. Bolt's failure to object to the Court's instruction on
5 malice in the instructions. Did you have further comment
6 on those particular issues?

7 A Page 329, lines 11 through 25, and go right into
8 page 330, lines 1 through 4. Mr. Moses says -- argued, if
9 Corky was killed with a weapon, with a deadly weapon, which
10 he was killed with a 40 caliber pistol, you can infer
11 malice from it. If Randy was involved in any way
12 whatsoever and we have malice, Randy Tyler, the gentleman
13 over there is guilty of murder.

14 I was involved buying drugs, but like I said, I
15 wasn't on trial for drugs. He told them simply, if there's
16 a weapon then it's malice; and that's -- of course the man
17 was killed and he was killed with a weapon, but that
18 doesn't -- that's no implied malice from me. That's not
19 even an inference of malice. Coming directly after that,
20 when the trial judge gave his charges on malice, page 374,
21 lines 7 through 16, he's charged malice, he said in other
22 words, malice are the words express or implied don't mean
23 different kinds of malice, but only the way that the manner
24 in which malice can be shown to exist.

25 In other words, malice can be proven by direct

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1 evidence or inference from facts and circumstances that are
2 proven. So in other words, proof of malice may be
3 expressed in other words direct where there is evidence of
4 previous threat to lying in wait; in other words
5 circumstances would show that an intent to kill existed.

6 Page 374, if you will, lines 23 through 25, he says
7 now, malice can be inferred from the willful intentional --
8 willful, deliberate, and the intentional doing of an
9 unlawful act without just cause or excuse or it may be
10 inferred from the use of the deadly weapon. Right here
11 he's told the jury that they can infer malice if they could
12 conclude that I was doing an unlawful act. Clearly,
13 drugs -- we were buying and selling drugs, that's an
14 unlawful act. And I had -- after the drugs were injected
15 and I took the stand, I had to try and explain my defense.
16 I explained everything that happened that night.

17 So they could -- he told them that they could infer
18 malice from the willful, deliberate and intentional doing
19 of an unlawful act. I have no way to refute that. They
20 had to look no further than the drugs because that was the
21 unlawful act that we were doing that night.

22 Then he goes on -- the judge freely goes on and on
23 middle page 375, lines 12 through 15, he says, the
24 inference of malice may be drawn from the proof of the use
25 of a deadly weapon. If you, the jury, conclude it's proper

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1 and considering all the facts. Now he's told them they
2 could draw malice if there was proof that he was killed
3 with a pistol. Well, he was killed with a deadly weapon.

4 So now, he's given them another way to find malice.
5 There was -- there was actually no way out of that and what
6 my argument really hinges on was Mr. Bolt has opened -- he
7 set the door for an improper -- he had malice a little
8 farfetched, but when the judge charged them malice can be
9 inferred from the willful and deliberate intention of doing
10 an unlawful act, some constitutional shifts the burden of
11 proof because I had no way to rebut that. It actually
12 becomes the conclusionary presumption. I -- if the jury
13 concluded we was doing an unlawful act because drugs are
14 unlawful, they had to look no further to find me guilty of
15 malice murder.

16 Q And then it's your contention that Mr. Bolt should
17 have made sure that there was a clarification at the very
18 least in that jury charge, so as to take any chance of
19 confusion from the jury?

20 A The State's burden was substantially heightened by
21 the unlawful act, but I believe that Mr. Bolt knew there
22 was something wrong with it because I have his copy of the
23 jury charge here and he has that marked for some reason.
24 If -- I don't know who I show this to, if you'd like --
25 this is his copy and he actually has malice may be inferred

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1 from the willful, deliberate intention of doing an unlawful
2 act highlighted out. He has a few things in there. It's a
3 little tinged but that's one of the documents that was
4 salvaged from when me documents had gotten throne away.
5 And this does stay on point because the issue that is I
6 raised, a lot of them -- well, issue, J --

7 THE COURT: Well, stick with the one you've got.
8 Let's go one at the time. Don't confuse the issue.

9 THE WITNESS: Right. He has it marked, so I'm
10 not -- I'm not just arguing case law, I'm arguing fact. He
11 should have objected to the malice can be proven through a
12 willful, deliberate, intention of doing an unlawful act
13 without just cause or excuse. Or it may be inferred from a
14 deadly weapon. If they can't conclude it from the unlawful
15 act, then they turn around and they -- he said it can be
16 inferred from the use of a deadly weapon. And if they
17 can't conclude from an unlawful act, it becomes mandatory
18 if there's a weapon.

19 Q Okay. This document is -- the document you just
20 handed me --

21 A Was part of his case file.

22 Q Okay. And I'm going to show it actually to the
23 assistant attorney general?

24 MS. MAY: I'm going to object at this point. When
25 Mr. Bolt gets to testify, if he can testify to that, that's

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1 fine, but...

2 THE COURT: All right.

3 MS. TURNER: Let me give it back --

4 THE COURT: Sustained.

5 MS. TURNER: Uh-huh.

6 BY MS. TURNER:

7 Q I'll hand it back to you right now. Okay. So it's
8 your contention that the jury charge was --

9 A Burden shifting.

10 Q -- burden shifting and inappropriate --

11 A It was burden shifting and unconstitutional.

12 Q -- going past the circumstances of this case in
13 that Mr. Bolt was ineffective in failing to object.

14 A Yeah. Based on the unlawful act. Drugs were
15 injected all through my trial. The jury had to look no
16 further than the unlawful act. The jury was charged with
17 conspiracy which also refers to an unlawful act. The jury
18 was charged with hand of one is the hand of all, which is
19 unlawful act. They were so confused, they came back out
20 and asked to be recharged on the hand of one is the hand of
21 all again and the judge didn't charge them.

22 Their confusion was very apparent from the unlawful
23 act. If -- I want to say it echoed the same theme through
24 the malice instruction, through the conspiracy and through
25 the hand of one is the hand of all. It all -- where two or

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1 more combined doing an unlawful act. We were going to buy
2 drugs. It was brought out, it was apparent.

3 Q Okay. Moving to issue J --

4 MS. TURNER: I'm sorry, Your Honor. That's the
5 amended, correct?

6 THE COURT: Okay.

7 BY MS. TURNER:

8 Q In his opening statement, Mr. Bolt stated -- I'm
9 referring to the transcript at 57, unlike many of the
10 witnesses who you will hear during this trial who gave a
11 statement, two statements, three statements filled the
12 inconsistencies, Randy Tyler has said from the date he
13 turned himself in, quote, this is what happened. I was
14 there, Robert Lewis, whose name is Corky was my friend. I
15 have been with him many times, I did not kill him. I did
16 not beat him. He was my friend. I did not do this. He
17 refers to witnesses giving multiple -- multiple -- multiple
18 statements?

19 A Correct.

20 Q Was Donna Hutto one of those witnesses who
21 testified on the State's behalf at trial?

22 A Yes, ma'am. Yeah. Donna Hutto was the State's, I
23 guess you would call key witness and Mr. Bolt over promised
24 and under delivered on this issue. He told the jury that
25 they would get these statements and they never got them.

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1 Q Okay. Let me just -- let's just --

2 A Okay.

3 Q -- clarify, how many statements did Ms. Hutto make
4 to the police?

5 A She wrote three different statements.

6 Q Okay. And why did she find it necessary to go back
7 and revise her initial statement at all?

8 A Okay. Because the -- bear with me one second.
9 What happened is -- here we go. Police reports plainly
10 says, the reason for the second interview was twofold, it
11 was thought that the timeline that was outlined in the
12 initial interview did not jive and it should have with the
13 CAD report and the 911 call. What had happened was Donna
14 and her brother, they gave an -- everybody in the trial
15 gave multiple inconsistent statements, but what had
16 happened was they didn't tell the truth. She didn't write
17 one, she didn't write two, she wrote three different
18 statements and all of them inconsistent with each other as
19 well as inconsistent with her testimony during the trial
20 and one of the most important parts is this timeline was
21 basically covered up, if you will. Page 170 -- the
22 timeline -- go ahead.

23 MS. TURNER: Excuse me just a minute.

24 BY MS. TURNER:

25 Q Mr. Tyler, are these the statements that Donna

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1 Hutto, the very statements that Donna Hutto made to the
2 police that you're referring to?

3 A Yes, ma'am.

4 Q Okay.

5 MS. TURNER: I'd like to enter these into evidence.

6 MS. MAY: No objection.

7 THE COURT: Without objection.

8 THE COURT REPORTER: Petitioner's 12, Your Honor.

9 (WHEREUPON Petitioner's Exhibit No. 12 was marked
10 into evidence.)

11 BY MS. TURNER:

12 Q Essentially, Mr. Tyler, Donna's initial report to
13 the police did not include an account that she -- that her
14 brother, who she went to -- she left the house. She went
15 to her brother's house, went to the scene of the -- of
16 Mr. Lewis' death with a gun?

17 A Correct.

18 Q Is that right?

19 A Correct.

20 Q And although that fact as you said is missing from
21 her initial statements that is flushed out in her later
22 statements because she had to explain the timeline because
23 the application questioned it, yes?

24 A Correct.

25 Q Okay. Now, do you feel that Mr. Bolt did an

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1 adequate job of cross-examining Ms. Hutto at trial?

2 A Mr. Bolt didn't impeach her. He told the jury that
3 the witnesses were going to give inconsistent statements;
4 and what had happened was when he was talking to her on
5 page 185, line 20 through 13, Mr. Bolt says, inside your
6 garage. You testified you said in your statement to
7 Sargent Friar, the first thing that ever attracted your
8 attention was the voices. Right here he's put the jury on
9 notice that she gave a statement. Prior to that, he said,
10 they give inconsistent statements.

11 Q Okay.

12 A Whatever --

13 Q I'm sorry.

14 A What her statements -- her statements don't allow
15 the jury to believe, what it is, if I may, Johnny's house
16 is here, the homicide scene happened here. Donna's
17 statement, I have mine marked one, two and three. I don't
18 know that those are -- number three in her statement says
19 that she left -- the picture we painted for the jury was
20 that woman heard voices. She runs to her brother's to seek
21 help. She comes back, they find him dead and they called
22 9-1-1. That's not what happened. That's not what
23 happened.

24 They painted a picture that she went to call the
25 police. In her statement, she says Johnny told me to call

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1 the police, but I said no. Well, that's what she went to
2 do was get help. What happened was --

3 MS. MAY: Your Honor, I don't understand.

4 THE COURT: I don't understand that either.

5 THE WITNESS: I'm going through the inconsistencies
6 of these three statements.

7 THE COURT: You don't get to testify as to whether
8 or not they're true or not. You can state what their
9 inconsistency, but --

10 THE WITNESS: I'm getting -- I want to paint the
11 timeline. I want to show the timeline. On page 188,
12 Mr. Bolt questioned her. He says at line 8, 188, he says,
13 now, at some point did you or your brother call 9-1-1. She
14 says yes. Was it you or Johnny. Johnny did. You didn't
15 call from your house? No. Did you have a cell phone
16 number? You went to your brother's house, y'all come back,
17 discover Corky has died, that's when you call 9-1-1.
18 Well, that's not what happened. This guy, she goes to his
19 house --

20 THE COURT: Is that not what was in the statement,
21 or is that's not what happened:

22 THE WITNESS: Well, that's not put in the
23 statement. The statement lays out over an hour timeline
24 that they rode around. That's why --

25 ///

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1 BY MS. TURNER:

2 Q I think that's what the judge is after.

3 A That's why the timeline didn't match up with the
4 CAD record and that was the whole point of these initial
5 statements.

6 Q Okay. So there -- how big a timeline -- how big a
7 gap between Ms. Hutto's statement and the one she finally
8 made wherein she admitted that she went to her brother's
9 and her brother had a gun, went back to the scene --

10 A She lied.

11 Q Right.

12 A She lied and the jury wasn't privy to this.

13 Q All right. And that's what you felt Mr. Bolt was
14 ineffective in --

15 A We should have used her.

16 Q Okay.

17 A Johnny wasn't at my trial, but he sat next to Donna
18 during the trial. But they made it look -- like I said,
19 like she failed to get help. Donna and Johnny come back
20 and they find him dead. That's the way they painted the
21 picture. But what happened was, she says that Johnny told
22 me to call the police, but I said no because the police
23 would be too late to help Corky. Johnny got a gun, left
24 this house to go help Corky. He told me and Susan to stay
25 here. Me and Susan sat in my car which was facing the road

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1 in case Randy showed up.

2 I got worried about Johnny, so he left their house
3 at 11:51 to go see if he was okay. Rode past about a mile,
4 turned around, drove back, passed slowly to see if we could
5 see Johnny's car. Went two miles, turned around, came back
6 around, turned in the driveway.

7 **MS. MAY:** Your Honor, I'm going to object if he's
8 going to read the entire --

9 **THE WITNESS:** I'm just trying to read --

10 **THE COURT:** No, you don't need to read the whole
11 thing. I'll read it. Thank you.

12 **THE WITNESS:** Well, I just knew that the PCR, the
13 preponderance of the evidence was on me. I was just trying
14 to establish this.

15 **THE COURT:** I can read.

16 **THE WITNESS:** Okay. Very well. Well, they didn't
17 call the police until 12:22.

18 **BY MS. TURNER:**

19 **Q** Okay.

20 **A** And this started at 11 o'clock. So an hour and a
21 halftime gap that you've got a man going back to the
22 homicide with a gun. This was stuff that was critical for
23 the jury to hear.

24 **Q** And as evidence of it being critical -- and I'm
25 referring to transcript at page 384, the jury, did they

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1 not --

2 A They asked for the statements.

3 Q Asked for the statement of not only Donna Hutto,
4 but also of Jimmy Williams.

5 A Yes.

6 Q Who we discussed earlier?

7 A Yes.

8 Q And they weren't allowed to have those statements?

9 A Because they were not into evidence.

10 Q Okay. Is it your contention that particularly
11 given the gap in the timeline, the fact that Mr. Bolt
12 indicated to the jurors that they would see inconsistent
13 statements --

14 A Yeah..

15 Q -- from the witnesses and the fact that the jury
16 came back and asked for them and weren't allowed them; is
17 that what goes particularly ineffective assistance of
18 counsel.

19 A Over promised and under delivered. Like I say,
20 this was the State's key witness and they put her testimony
21 to prove the truth of the matter asserted when she had lied
22 to the police. She gave three different statements. I
23 mean, this is a victim. Why is a victim lying to the
24 police.

25 Q Okay.

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1 A And then you have her brother coming down here with
2 a gun, he wasn't at the trial, that's reasonable doubt.
3 This is -- all the reasonable doubt is being extracted from
4 the trial with these not coming in. This goes to her
5 credibility.

6 Q Okay. And is it your contention that that was a
7 pivotal point in this trial, Ms. Hutto being the State's
8 star witness?

9 A Of course, it was. Of course it was.

10 Q And irreparable --

11 THE COURT: Are you testifying or asking a
12 question?

13 MS. TURNER: I am simply trying to get the
14 prejudices that Mr. Tyler's alleging --

15 THE WITNESS: What it did was it denied my right to
16 cross-examine. He should have impeached her with these.

17 BY MS. TURNER:

18 Q Okay. Now, we have been through -- I'm on issue I.

19 THE COURT: Which issue?

20 MS. TURNER: I, in the amended brief -- I'm sorry.
21 G and H were argued together. I didn't mention that.

22 BY MS. TURNER:

23 Q This deals with Mr. Bolt's failure to object to Mr.
24 Swarat pitting your testimony against Travis' who was not
25 there. We have covered this issue. Is there an additional

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1 aspect that's covered in your amended brief that was not --
2 that we didn't already cover here today?

3 A Well he's pitting people -- he clearly -- I'm not
4 going to read it again, like I said, we've already been
5 over this. He pitted me against a codefendant, alleged
6 codefendant who's not a trial. I can't -- I can't -- I
7 can't defend against a codefendant who is not in the
8 courtroom. If he would have objected to this, this clearly
9 would have made the result of the trial different, but it
10 would have had some type of effect on the appeal as well.
11 Because I -- you're pitting me against somebody who's not
12 in the courtroom, I can't say anything about what he said
13 because I don't know what he said. He pitted me.
14 That's -- it's that simple. He asked my --

15 THE COURT: You've stated that.

16 THE WITNESS: Okay.

17 BY MS. TURNER:

18 Q Okay. You also made in your relief application an
19 allegation for ineffective assistance of counsel for
20 failure to do an adequate amount of pretrial investigation
21 and we've discussed one of those aspects, which included
22 getting SLED's file. How much time did Mr. Bolt spend with
23 you prior to taking this case to trial?

24 A I had met Mr. Bolt to my -- the man that was in any
25 jail cell, the name was Mike Light and as Mr. Bolt, his

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1 secretary's cousin, they were related. That's how I met
2 Mr. Bolt. Mr. Bolt would talk to me when he would come see
3 my client, but we didn't -- I'd only seen him three, maybe
4 four times and we talked -- the last week I didn't even --
5 we didn't really talk. I just kept saying, look, I didn't
6 do this, I didn't do this. One time he came and we sat
7 down right before trial. He said him and Trey would be at
8 trial the next day. The next day Trey wasn't there, but he
9 had a bunch of pictures. I never even got to see the
10 pictures.

11 I had wrote -- we had a little problem at the
12 beginning. I wrote Mr. Bolt multiple letters, multiple
13 letters complaining. I wrote the South Carolina bar. They
14 wrote me back. I wrote Judge Westbrook and three days
15 later they put me in front of Judge Westbrook and he put me
16 on trial and I've been in prison ever since. I believe
17 this should have been explored because I did make Mr. Bolt
18 sign for these. I'd wrote Mr. Bolt three different
19 letters. I wrote the South Carolina bar complaining about
20 him. They wrote me back.

21 Q What were the major complaints regarding Mr. Bolt's
22 representation?

23 A He wasn't doing anything. He did absolutely
24 nothing.

25 MS. MAY: Can I just get a time frame for that?

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1 I'm sorry.

2 THE COURT: When were the letters written?

3 MS. TURNER: I'm sorry. I apologize I completely
4 misunderstood the question.

5 BY MS. TURNER:

6 Q When were the letters written?

7 A Okay. I wrote -- one letter was signed for 5/8/03.
8 One was signed for 3/28/03. One was signed for 8/4/03.

9 Q When was the trial?

10 A Prior to trial.

11 Q When was your trial?

12 A My trial was June 9th.

13 Q Of two thousand --

14 THE COURT: These were all after the --

15 THE WITNESS: No, prior to, prior to.

16 BY MS. TURNER:

17 Q These are all -- in June of 2003, yes?

18 A May -- May, June. I believe my mom -- one of them
19 my mom even wrote them. I wrote them three and I wrote
20 Judge Westbrook July 5th of '03.

21 THE COURT: Which would have been after the trial.

22 THE WITNESS: No. July -- or June 5th, I'm sorry.
23 June 5th of '03, I wrote Mr. Westbrook complaining about
24 Mr. Bolt and June 9th, four days later, they took me in
25 front of Mr. Westbrook and I've been here ever since.

Randal S. Tyler - Direct Examination by Ms. Turner

1 I'm going to -- let me separate these letters. I
2 don't want to waste your time.

3 Q Tell me, specifically, Mr. Tyler, what pretrial
4 investigation you are alleging Mr. Bolt should have
5 conducted that he failed to conduct?

6 A Well, the things that wasn't told to the jury -- do
7 we want to admit these letters?

8 Q I certainly will, but I want you to tell the Court
9 what's in them -- what --

10 A Well, in these letters, I had complained because he
11 had took my money and he wasn't doing anything. He didn't
12 come and see me. We didn't prepare no defense. What was
13 really bad was in one of them, I asked -- I said, look, I
14 put in -- this isn't my first rodeo, so the minute this
15 happened, I put in for a preliminary hearing and I put in
16 for a preliminary hearing before I was indicted, but I
17 never got a preliminary hearing and I was complaining to
18 him because we have a warrant for burglary that says
19 detailed confessions have been obtained from both
20 defendants. How can you get a detailed confession when I
21 invoked my right to remain silent. I didn't give no
22 confession.

23 Q And that is one aspect that you feel Mr. Bolt
24 should have discovered through conducting that
25 investigation?

Randal S. Tyler - Direct Examination by Ms. Turner

1 A I don't know what good it would have done. Like I
2 said, I'm from Michigan and they don't go off an indictment
3 system. They have a warrant system, so I just know that --

4 MS. MAY: Your Honor, can I just ask simply what
5 Mr. Bolt failed to investigate?

6 THE COURT: Yeah, what did he fail to investigate?
7 That's what I want to know. I don't want to know just
8 everything he didn't do. I just want to know what he
9 didn't do.

10 THE WITNESS: Okay. Can I -- if you can't
11 enumerate it --

12 I have the documents. That's letter I wrote, South
13 Carolina Bar and their return letter. He has three of
14 them, correct?

15 THE COURT: Let me see the attorneys in chambers,
16 please.

17 (WHEREUPON a recess was observed.)

18 THE COURT: All right. Ms. Turner, you may
19 proceed.

20 MS. TURNER: I'm sorry, Your Honor, can I take just
21 a moment with my client?

22 THE COURT: You may.

23 All right. Let's go ahead and take a ten minute
24 recess. We're going to continue on until we're done
25 because they've got other things that Judge Griffith t has

Randal S. Tyler - Direct Examination by Ms. Turner

1 On cross on page 303, line 15 through 19, 14, I
2 said, It was dark. When I ran it was dark outside. Swarat
3 said they can look at the crime scene video tape and tell
4 what it was like out there that night. The jury can look
5 and decide whether you're telling the truth.

6 Q Okay. Mr. Tyler, would you like for -- would up
7 like for that video tape from trial to be introduced into
8 evidence in this proceeding?

9 A Yes. And I -- I need the photos because Dennis was
10 aware of the photos through the correspondence with the
11 solicitor's office. They put him on notice of all of the
12 evidence that they had.

13 Q Okay. Hold on for me for just one second.

14 MS. TURNER: Judge, I did speak with the clerk of
15 court in general sessions downstairs. It is State's
16 Exhibit No. 5. She indicated that if your clerk would IM
17 her, that -- if we needed it, then it would be delivered to
18 us.

19 THE COURT: Okay. We'll get it. Mr. Bolt is --
20 I'm sorry, Mr. Tyler is speaking of photographs of the
21 crime scene which did not come into evidence that he's
22 alleging Mr. Bolt should have put in. I obtained those.

23 I'm going the wait to hear Mr. Bolt's testimony as
24 well whether I need those or not.

25 MS. TURNER: Okay. All right. Then I can just re

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1 approach that when we --

2 THE COURT: Right.

3 THE WITNESS: The SLED documents.

4 Q Okay.

5 A What did not come into the record.

6 Q And you said that you ordered the entire SLED file
7 after your trial because you didn't have access to it
8 through your attorney; is that right?

9 A Yes..

10 Q Okay.

11 A Yeah, I asked -- I wrote SLED. SLED charged me \$65
12 for it. Let me find it.

13 MS. TURNER: There is an objection from the
14 attorney general as to a letter that was sent after trial.
15 I would offer the remaining documents into evidence.

16 THE COURT: What's your objection?

17 THE WITNESS: What was sent after trial?

18 THE COURT: Wait a minute, I'm talking.

19 MS. MAY: It's the letter to Judge Westbrook is
20 dated -- it's after the trial is over, and it's --

21 THE COURT: It's inadmissible. It's not coming in
22 on this. It was dated after the trial.

23 THE WITNESS: It was prior to trial.

24 THE COURT: What is it dated?

25 THE WITNESS: This is my typo. Sargent Harris of

Randal S. Tyler - Direct Examination by Ms. Turner

1 the Lexington County Sheriff's Department notarized it that
2 day. It's just an oversight right here on my behalf. It
3 was -- it was sent --

4 MS. TURNER: It was notarized June 5th.

5 MS. MAY: I have no way of knowing whether that was
6 ever received by Judge Westbrook.

7 THE COURT: We don't know. I'm not going -- his
8 correspondence to the judge, he has testified he is at a
9 PCR, that's what we're sticking to, not what
10 correspondence, which was probably improper to Judge
11 Westbrook. He might not have even read it.

12 MS. TURNER: What was that ruling.

13 THE COURT: It's not coming in.

14 MS. TURNER: What about these?

15 THE COURT: Is there any objection for those other
16 letters there?

17 MS. MAY: No objection, Your Honor.

18 THE COURT: Without objection those are coming in.

19 THE COURT REPORTER: That's Petitioner's 13, Your
20 Honor.

21 THE COURT: All right.

22 (WHEREUPON Petitioner's Exhibit No. 13 was marked
23 into evidence.)

24 BY MS. TURNER:

25 Q Okay. Other than the documents we entered earlier

Randal S. Tyler - Direct Examination by Ms. Turner

1 concerning the DNA evidence that came from SLED, what other
2 SLED documents would Mr. Bolt have discovered with the
3 appropriate investigation?

4 A I had wrote this letter to SLED, seeking my SLED
5 file.

6 Q Okay. That's the letter seeking the file. What's
7 in the file that should have come in but didn't?

8 A Okay. The ballistics. I have a copy if I'm
9 supposed to give them to somebody here.

10 Q Okay. Tell me everything it is in the file.

11 A What is it -- the ballistics clearly --

12 Q -- that should have come in.

13 A 36 and 37, the bullets, are inconclusive of 38, 39,
14 40, 41. 30, 39 and 40 are inconclusive with each other and
15 with 36 and 37. 38 and 39 have no core value. 41 is
16 inconclusive with 36 and 38 and 39 and 40: What it's
17 showing is all these bullets are inconsistent. You get to
18 the last page and it says tell call from Swarat. He
19 advised he was attempting to show all items fired by one
20 gun. I told him I had problems with the bullets. He said,
21 no need to examine.

22 Q Okay. That's all part of SLED's file?

23 A Now --

24 Q Any other documents from what -- the material you
25 received from SLED?

Randal S. Tyler - Direct Examination by Ms. Turner

1 MS. MAY: Without objection, Your Honor.

2 THE COURT: Without objection.

3 THE WITNESS: He was trying to show.

4 THE COURT REPORTER: Wait.

5 Q If it's --

6 A I have to do these separately.

7 Q Okay. But if it's all from the SLED file, we can
8 enter it at the same time is all I'm saying.

9 A Okay. Okay. There was a metal can containing one
10 pistol magazine, it says no exam conducted. The next page,
11 it goes back into there ballistics ticks, but you see where
12 Swarat said that -- what's that exhibit?

13 Q This is item 36 and 37?

14 A Where Swarat said he was attempting to show all
15 items fired by one gun, here Kenneth Whitler from SLED says
16 they cannot be identified as being fired from the same
17 barrel. What it is, is that you have all these bullets
18 that are inconclusive with each other. So you have Johnny
19 Hutto, who's at the scene with a gun. You have Travis who
20 has a gun. The GSR kit that comes from SLED -- the GSR
21 that was done on Donna was no gunshot residue. Johnny was
22 six hours late. Okay. That -- but they did a gunshot
23 residue on the victim himself and the sample submitted in
24 the kit labeled Robert Lewis, metal consistent with gunshot
25 residue found on the back -- both palms and back of right

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1 hand. The quantity of metals detected on the back of the
2 left hand may be those of gunshot residue. So now you have
3 the victim with a gun.

4 Q Okay.

5 A You have three people here with a gun. The jury
6 wasn't told that.

7 Q And the --

8 A The prosecution is the one that made it look like
9 it was one -- just one gun.

10 Q Okay. And the result of gunshot analysis was
11 referred to from the SLED file.

12 THE COURT: Any objection?

13 MS. MAY: Without objection.

14 THE COURT: Without objection, the next exhibit.

15 BY MS. TURNER:

16 Q Okay. Another pair of documents that you mentioned
17 that Mr. Bolt would have discovered and should have are --

18 A The jury should have been told that Johnny Hutto
19 went back to his house with a gun. It encompasses with the
20 timeline.

21 Q Okay.

22 A This is a murder scene. There's a lot of things
23 going on. They were complaining about a dresser drawer
24 being pulled out. They said they didn't do it. How did we
25 do it when he was there --

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1 MS. MAY: Your Honor, we're going off --

2 THE COURT: Sustained.

3 MS. TURNER: Your Honor, we would offer what are
4 Johnny Hutto's two statements to the police into evidence.

5 THE COURT: Any objection?

6 MS. MAY: No, no objection.

7 MS. TURNER: Are those more --

8 THE WITNESS: Your Honor, I have just a few more.
9 I'll be very brief.

10 MS. TURNER: Okay. We're going to make all the
11 SLED documents one single exhibit to clear up all the
12 confusion. Let's get all of the SLED documents in.

13 THE WITNESS: Item 35 was the metal can containing
14 a pistol magazine. No exam conducted per conversation with
15 the solicitor.

16 BY MS. TURNER:

17 Q Okay.

18 A He was picking and choosing what the jury was not
19 privy to all this. We have three people at a homicide with
20 guns. I don't have a gun.

21 Q And, again, to your knowledge, Mr. Bolt did not
22 have SLED's file at all?

23 A No. This would have -- a lot of this would have
24 refuted the State -- all the reasonable doubt was left out
25 of the case without merit. I mean, you have -- there's so

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1 much that the jury wasn't told. Well, it was critical to
2 my defense because I didn't commit this crime.

3 Q Okay.

4 A I never had Travis' statement until I got it.

5 Q Is this coming -- is Travis' statement material
6 that you're alleging that Mr. Bolt was deficient in failing
7 to obtain and --

8 A Well, it comes 234 -- we'll do it -- we'll do it
9 because it comes in in the next issue.

10 THE COURT: Just do one issue at the time. It's
11 very confusing when you start hip hopping around.

12 THE WITNESS: Yes, sir, I understand that.
13 This goes with the SLED document, I believe.

14 MS. TURNER: Okay.

15 THE COURT: Any objection on this.

16 MS. TURNER: I'm sorry, I failed to show you this.

17 MS. MAY: No objection.

18 THE COURT: Without objection. These would be
19 plaintiff's exhibit what?

20 THE COURT REPORTER: 14.

21 THE COURT: 14.

22 THE COURT REPORTER: And the statements that came
23 in would be 15.

24 THE COURT: Okay. Thank you.

25 (WHEREUPON Petitioner's Exhibits 14 and 15 were

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1 marked for evidence.)

2 BY MS. TURNER:

3 Q Okay. Regarding the pretrial investigation, what
4 other forms of investigation do you feel Mr. Bolt should
5 have taken that were not taken?

6 A Well, he could have interviewed Johnny. Johnny
7 didn't have an attorney. Like I said Johnny went to this
8 homicide scene with a gun. The multiple inconsistent
9 statements, he lied to the cops. This is a homicide. I
10 believe that the jury should have been privy to his
11 actions.

12 Q Okay. Was -- neither of those statements were
13 introduced --

14 A No.

15 Q -- to the jury?

16 A No. No, Johnny wasn't called in my trial.

17 Q And it's your contention that presenting evidence
18 of another person with a gun at the scene would have vastly
19 impacted the outcome of your hearing?

20 A Well, it's the reasonable doubt. There's -- it
21 painted a picture that one guy has a gun and he shoots this
22 guy and kills him. That's not what happened there.

23 Q Okay. And was made evidence in Mr. Hutto's
24 statements to the police that he was there with a gun?

25 A Correct. As far as the investigation, I don't

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1 believe he did anything because he was -- at the end of my
2 trial -- well, the directed verdict, Mr. Bolt could have
3 argued that I couldn't have done the crime.

4 THE COURT: Is that responsive to a question you're
5 talking about there?

6 THE WITNESS: I guess investigation because --

7 THE COURT: Wait a minute. Have you asked him a
8 question? He's going off on something new.

9 BY MS. TURNER:

10 Q I simply want him to state any effort that Mr. Bolt
11 failed to pursue that you're alleging that he should?

12 A He didn't do anything.

13 Q Okay. Any other specifics? Any other people that
14 you're alleging that he should have talked to?

15 A He should have contacted Donna Hutto -- I mean
16 Debra Harsey. Travis' little brother gave multiple
17 inconsistent statements. These people were -- were all, I
18 guess if you would call them alleged codefendants because
19 they all got arrested on this. Debra Harsey, his mother,
20 she was arrested that she knew her son was involved based
21 on his admission to her. She gave multiple statements.
22 She even said that Travis went back to the scene after the
23 crime.

24 Q Okay. And that is a statement that she gave to the
25 police?

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- 1 A From Debra Harsey. Travis' wife -- well, alleged
2 wife, she's I guess you would call then common law. She
3 was arrested. She gave two different statements to the
4 police, inconsistent with everything that Travis said.
5 This -- I believe will be impeach -- he should have
6 attacked the State's case.
- 7 Q Okay. What about Travis' brother, Sammy?
- 8 A He's the one that got rid of the gun. He should
9 have been called for trial.
- 10 Q And he also provided a statement to the police?
- 11 A Yeah, yes, ma'am. It's real clear. It says that
12 the brother Harsey committed said murder. Describe it had
13 said Harsey provided Harsey with the murder weapon. These
14 guys should have been called to my trial. Why wouldn't you
15 call these guys to my trial?
- 16 Q Okay. That's -- you just referred to a police
17 report?
- 18 A Yes. And in -- no, it's what they're -- and his
19 statement is --
- 20 Q Okay. I think I have a copy of his statement?
- 21 A I believe he gave multiple statements too.
- 22 Q To your knowledge --
- 23 A I have it right here.
- 24 Q Okay. You do have it? That statement?
- 25 A Uh-huh.

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1 Q To your knowledge, did Mr. Bolt speak with James
2 Williams?

3 A Mr. Bolt didn't interview any witnesses. The only
4 thing that he said to me was -- he said Randy, the problem
5 with this case is y'all have criminal history backgrounds
6 and I said, Well, Dennis, I didn't do it. I didn't do it.
7 All these facts were hidden from the jury. When they --
8 when he picked -- well, let me make sure it comes in --
9 Travis' will come in next, so that's Sammy's statement.
10 And it says Keshia Simpson, Debby and -- that's his mother
11 and that's the statements are attached to them.

12 Q Okay.

13 A All of them are in connection with this crime.

14 MS. MAY: No objection to, Your Honor to these.

15 THE COURT: What?

16 MS. MAY: No objection to these.

17 THE COURT: No objection. All right.

18 BY MS. TURNER:

19 Q Mr. Tyler --

20 THE COURT: Wait a minute, she needs to finish
21 marking them.

22 THE COURT REPORTER: These statements are
23 Petitioner's 16, Your Honor.

24 THE COURT: All right. Thank you.

25 (WHEREUPON Petitioner's Exhibit 16 was marked into

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1 evidence.)

2 THE COURT: You may proceed.

3 Q You're alleging that Mr. Bolt was ineffective in
4 failing to, as part of his investigation speak with James
5 T. Williams; is that --

6 A Yes.

7 Q -- correct?

8 A Yes.

9 Q Are you also alleging that he was ineffective in
10 failing to obtain and review his statement to the police?

11 A Well the -- and even the tape. Listen to the tape.
12 Like I said, like we seen there was verse with Jimmy's
13 testimony and what the solicitor is alleging was
14 transcribed. We don't even know who transcribed that
15 statement and it's -- it's different. You know, the
16 transcribed statement is different from the tape.

17 Q And Mr. Williams indicates as much at trial?

18 A Oh yeah. Oh yes, definitely.

19 Q I am going to show you what alleges to be a
20 transcription?

21 MS. MAY: I'm just going to object to this based
22 on, I don't know who did this. It's not signed, it's not
23 stamped or clocked or filed with anything.

24 THE COURT: I'm going to accept it for the purposes
25 of this hearing.

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1 MS. TURNER: And, Your Honor, again, for purposes
2 of Mr. Tyler's allegations of ineffective assistance, given
3 the controversy that arose regarding what the transcription
4 alleged. I would also offer into evidence the Lexington
5 County Sheriff's Department audio recording.

6 THE COURT: All right.

7 MS. MAY: No objection.

8 THE COURT REPORTER: The transcript is 17 and the
9 tape will be 18, Your Honor.

10 THE COURT: All right. Thank you.

11 (WHEREUPON Petitioner's Exhibits 17 and 18 were
12 marked into evidence.)

13 Q Okay. I think we've got everybody's statement?

14 A Yeah.

15 Q In -- that gave statements to the police?

16 A That were not called at trial. They were not
17 interviewed.

18 THE COURT: Let her finish her question, please.

19 Please finish your question, please.

20 BY MS. TURNER:

21 Q And it's your allegation that they should have been
22 part of Mr. Bolt's pretrial investigation?

23 A Of course, it's a homicide.

24 Q Okay. Other than the witnesses that we've
25 discussed and entered their statements are there any other

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1 pretrial measures Mr. Bolt should have taken that he
2 didn't?

3 A Yes, it's going to come in with -- with the next
4 issue.

5 Q Okay. That's it for this issue. Let's talk about
6 our final issue, right?

7 A Yeah, I believe so.

8 THE COURT: Before we start that -- if y'all need
9 the take these other defendants out, we're not going to
10 stop because there's no reason for them to stay here if you
11 want to do that.

12 MS. MAY: Can he leave? Their cases have been
13 continued.

14 THE COURT: Yeah, they can leave.

15 (WHEREUPON an off-the-record discussion was held.)

16 MS. TURNER: I'm sorry, Your Honor, is it okay for
17 me to continue?

18 THE COURT: Please.

19 BY MS. TURNER:

20 Q Okay. Mr. Tyler, the -- our final issue here is
21 whether counsel was ineffective for failing to interview a
22 nontestifying codefendant, that's Travis Harsey, written
23 and complete oral statements into evidence when the State
24 listed only portions of Harsey's oral statement -- that
25 statement that was made to Detective Friar? If you'll

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1 refer to page 211 of the transcript, I believe that begins
2 the reference to Mr. Harsey's statements.

3 A Page 211, line 11 through 21? And this is only
4 indicating that Detective Friar in fact did make contact
5 with -- he told the jury -- he was in the rear. He told
6 the jury that Travis was interviewed at length. And then
7 he was asked, did he indicate to you where he parked the
8 car. And that's when Mr. Bolt did object, after this.
9 After the jury was told. That's where the confrontation
10 clause issue came in.

11 Q He objected to the hearsay testimony. The trial
12 court overruled Mr. Bolt's --

13 A Correct.

14 Q That entire issue was subject you to appeal?

15 A Right. That's correct.

16 Q Okay. So it's not failure to object to the hearsay
17 that we're alleging?

18 A No. It's the --

19 Q That's ineffective?

20 A It's -- once they let that piece of Travis'
21 statement in, they should have introduced the whole
22 statement under the rule of completeness.

23 Q Okay.

24 A The rules are very simple on that. Page 213, line
25 21 through 25, Swarat says the question I have for you.

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1 Did Travis supposedly to tell you where he parked his car
2 in relation to Corky Lewis' home? Detective Friar says,
3 yes. He indicated he kept the car back from the road,
4 hidden from the home. Right there is where the word hidden
5 got injected in my trial. Travis never said, we hid no
6 car. If you -- to go through his statement, Travis doesn't
7 say anything about a preconceived plan. He even tells a
8 couple of really good nice lies that the jury should have
9 seen this because this one statement was put to them to
10 prove the truth of the matter asserted. Once a piece of it
11 comes in, they should get to hear it all. You can't just
12 cherry pick one statement and build on it. It should have
13 all been -- it should have been -- the whole statement
14 should have been moved in.

15 Q And most particularly in this case, the jury would
16 have had to have access to the entire statement to know
17 that at no point in his statement did Travis ever allege
18 that he hid the car at your instructions?

19 A Exactly.

20 Q Is that correct?

21 A Exactly.

22 Q And therefore it was ineffective for Mr. Bolt with
23 any of the statement being in to fail to make sure that it
24 all got in so that that point could be made?

25 A You can't pick and choose. If you're going to have

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1 a piece of the cake, you ought to have the whole cake
2 because Travis' statement said that he run to his car and I
3 had gloves and a mask on. Well, if I had a mask -- for the
4 jury to believe his statement, if I had gloves on, how did
5 my hands get this injury. You see what I mean in there are
6 so many inconsistencies in Travis's statement. They
7 tried -- the solicitor tried to make it look like we went
8 there to rob him. Nowhere in here does it say anything
9 about robbing. The solicitor's closing put us down and two
10 hoodlums doing --

11 THE COURT: Wait a minute, where are you --

12 THE WITNESS: I'm, I'm --

13 THE COURT: You're off going on a tangent here.

14 THE WITNESS: I'm going --

15 THE COURT: Wait a minute. When I'm speaking, you
16 don't speak. Let's get that straight.

17 THE WITNESS: Yes, sir.

18 THE COURT: Now you were talking about Mr. Bolt's
19 failure to object. Now, you're off on something else.
20 Now, he did object on this issue correct?

21 MS. TURNER: He objected to the hearsay, yes, sir.

22 THE COURT: Okay. He objected and he lost the
23 argument.

24 MS. TURNER: Yes, sir. And after that, only a
25 portion of Mr. Harsey's statement came into evidence and

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1 Mr. Tyler's allegation is ineffective assistance of counsel
2 for Mr. Bolt failing to make sure the entire statement got
3 in once a portion of it did and is that only by viewing the
4 entire statement could the jury know there was never any
5 point that Detective Friar was told that they intentionally
6 hid the car.

7 THE COURT: Okay.

8 BY MS. TURNER:

9 Q Was -- Mr. Harsey's statement, when you read it in
10 its total form also include some information about his
11 brother and him -- and how they -- and how Mr. Harsey
12 disposed of the gun?

13 A Yes.

14 Q Okay.

15 A This -- the statement coming in would have refuted
16 the State's version of events with what Travis said and as
17 actually with the State's whole entire theory because we
18 were not acting together. He doesn't say we were acting
19 together. There's no grievancy planned. He doesn't say I
20 changed my clothes. I mean, this all affects us -- would
21 have affected the solicitor's closing.

22 Q As a matter of fact, Mr. Harsey specifically denies
23 a conspiracy?

24 A Yes.

25 Q Yes. Okay. If Mr. Harsey's statements are not

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1 already in evidence, I would move to have them admitted, as
2 well as this --

3 THE COURT: It's not in evidence.

4 MS. MAY: No objection, it's in the transcript.

5 MS. TURNER: The statement that he wrote to the
6 police?

7 MS. MAY: Oh. No objection.

8 MS. TURNER: And as well as his brother's
9 statement, which is --

10 THE COURT: Without objection.

11 (WHEREUPON Petitioner's Exhibit No. 19 was marked
12 into evidence.)

13 BY MS. TURNER:

14 Q Any other statements that were failed to -- or that
15 Mr. Bolt failed to get into evidence or witnesses?

16 A By putting that statement in, the police knew
17 because the police report says Harsey began to change his
18 story. The jury was never told that he changed his story.
19 See that one statement was taken to build this whole theory
20 on and the hidden part was injected by the officer. The
21 solicitor drove it home. Travis never said it. He said
22 that the car was parked at the top of the driveway. He
23 doesn't -- there's -- this statement is inconsistent with
24 any type of conspiracy, any type of preconceived plan to go
25 over and rob this guy, there's just nothing in there to

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1 support the State's theory and I just thought it was very
2 prejudicial to take one piece rather than just move the
3 whole statement. If you can have a piece of it, you get it
4 all. The result -- I was clearly denied effective
5 assistance of trial, I was denied a fair trial. All this
6 had -- this is all reasonable doubt that the jury wasn't
7 made privy to. The State's theory was we were going to rob
8 them. Travis' statement says he gave them \$25,000.

9 MS. MAY: Your Honor, I object --

10 THE COURT: Sustained. It's not responsive to a
11 question.

12 BY MS. TURNER:

13 Q Okay. And the statements are in fact in evidence.
14 One issue that I do want to take up with you is that you
15 and I discussed earlier, Mr. Williams, your uncle testified
16 at trial, was under subpoena to appear today which he did
17 not, but you and I discussed that if his statements and the
18 tape recording were entered into evidence, we didn't feel
19 that his testimony was necessary so the sheriff did not
20 need to go collect Mr. Williams. Are you in agreement?

21 A Well, the tape will clearly show that he over -- he
22 made a mistake when he spoke, but he corrected himself and
23 that was never brought out. That's why Jimmy said, I don't
24 remember saying that.

25 Q Okay. But he's okay -- your okay with him not

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1 being here to testify since the tape is in evidence, right?

2 A Yes.

3 Q I'm sorry.

4 A Yes, would be fine because his testimony really
5 doesn't say anything except for that piece but that was --
6 that was -- they should have let the whole tape in and let
7 the jury decide. We don't know who transcribed that
8 transcribed statement.

9 Q And Lawrence Simmons was also under subpoena. You
10 and I talked about that earlier. You agreed with me that
11 he could also be released from his subpoena?

12 A Yes, Lawrence was just here to show that I did
13 invoke my right to remain silent.

14 Q Okay.

15 A And it was used against me.

16 Q And that's a point we've been applicably here.
17 Would you agree with that?

18 A Well, of course, my right to remain silent. The
19 jury could infer guilt from that. Without a doubt.

20 Q And Donna Hutto was another --

21 A Donna, her statements speak for themselves.
22 They're all inconsistent with each other and with her trial
23 testimony.

24 Q And they're all in the record.

25 A She should have been impeached. I have Dennis

Randal S. Tyler - Direct Examination by Ms. Turner

1 Bolt's actual defense case notes.

2 Q Okay. Mr. Bolt is going to testify.

3 THE COURT: You can't testify at this point in time
4 about that. Your attorney can cross-examine him.

5 THE WITNESS: Yes, sir. May I speak?

6 THE COURT: What's your next question? Or what is
7 your question?

8 THE WITNESS: My question is, is there any other
9 investigative action that Mr. Bolt should have been
10 taken --

11 THE COURT: Now we're going back to another -- the
12 original --

13 MS. TURNER: I'm sorry, you're right. You're
14 absolutely right, Your Honor.

15 BY MS. TURNER:

16 Q Is that all the documentation you wanted to
17 present --

18 A The document, yes.

19 Q The failure to introduce Mr. Harsey's entire
20 statements, which -- those are those.

21 (WHEREUPON there was discussion about exhibits.

22 MS. MAY: No objection.

23 THE COURT: Without objection.

24 THE COURT REPORTER: Exhibit 19, Your Honor.

25 ///

1 BY MS. TURNER:

2 Q Are you going to tender another document?

3 A No, this comes in.

4 (WHEREUPON there was a pause in the proceedings.)

5 THE WITNESS: My thing was about the prior bad acts
6 charge I wrote you. He said he didn't even think it
7 applied but then he let it in.

8 MS. TURNER: Absolutely and Mr. Bolt's going to
9 testify.

10 THE WITNESS: Thank you very much.

11 MS. TURNER: Okay. I have no --

12 THE WITNESS: That's all the documentation I have.

13 THE COURT: Cross-examination?

14 MS. MAY: I have no questions, Your Honor.

15 THE COURT: Thank you, you may step down.

16 Any other witnesses?

17 MS. TURNER: None from the petitioner.

18 THE COURT: All right. Thank you. For the
19 defendant?

20 MS. MAY: Your Honor, the State would like to call
21 Mr. Bolt.

22 THE COURT: Come forward, please and be sworn.

23 DENNIS BOLT,

24 having been duly sworn, testified as follows:

25 THE CLERK: If you'll have a seat. When your

Dennis Bolt - Direct Examination by Ms. May

1 seated, state your name for the Court and spell it for the
2 court reporter.

3 THE WITNESS: My full name is Joseph Dennis, Bolt,
4 B-o-l-t.

5 DIRECT EXAMINATION

6 By MS. MAY:

7 Q Mr. Bolt, how long have you been practicing law?

8 A About 38 and a half years.

9 Q And how much of that has been in the area of
10 criminal law?

11 A Well, I started my career as a prosecuting attorney
12 and since I left the solicitor's office, I'd say over the
13 years 60 percent of my practice or more has been criminal
14 work, including appeals and PCRs.

15 Q And were you the first attorney representing Mr.
16 Tyler in this case?

17 A I was not.

18 Q Were you the second attorney?

19 THE COURT: Mr. Tyler, you may be seated by your
20 attorney.

21 THE WITNESS: I was after the first. I believe I
22 was probably the second. I think Lawrence Simmons
23 represented Mr. Tyler before I did.

24 BY MS. MAY:

25 Q And were you appointed to represent Mr. Tyler or --

Dennis Bolt - Direct Examination by Ms. May

1 A No, I was -- his mother hired me.

2 Q And did you meet with Mr. Tyler to discuss the
3 charges and the indictments and all the evidence against
4 him?

5 A Yes, I did.

6 Q You recall about how many times y'all met over the
7 course of your representation?

8 A You know I've been here about eight times on this
9 case and we've discussed my file several times. I've been
10 able to review what's on the hard drive on my computer. I
11 had hard documents in my office. Part of the file, it's my
12 recollection was in my off-sight storage facility. Your
13 files get so voluminous, you can't keep them at your
14 office. So I don't have a record, a time record. I was
15 not being paid by the hour. I didn't keep a physical time
16 record where I would if I'm being paid by the hour. But I
17 would say I saw Randy probably eight, ten, eleven, twelve
18 times.

19 He was denied bail or he couldn't make his bail, so
20 he was detained on a pretrial basis and he was always in
21 custody from the time I met him.

22 Q And you discussed the possible sentences for each
23 charge were against him?

24 A Yes, we did.

25 Q And did you discuss his version of the case?

Dennis Bolt - Direct Examination by Ms. May

1 A Well, if you'll give me a little leeway. I have a
2 problem with the fact he'd given a statement incriminating
3 his brother. And if I recall all of the Harsey's were
4 arrested. Travis Harsey was a codefendant, he was
5 represented by Jack Swerling. I called Jack, who I went to
6 college with, and he said, I'm not consenting for you to
7 interview my client. He's the codefendant. I think that
8 one of the brothers was charged with maybe obstruction of
9 justice. I think he burned the gun, the 40 caliber handgun
10 and maybe some shoes or something. And, I'm sorry. I
11 forgot your question.

12 Q I asked if you discussed his version of the facts
13 and I think you were going into --

14 A Yeah, I said you know, the facts, they're going to
15 try to use this against you that you -- that you --
16 according to my notes, they interviewed his Miranda Rights
17 and then as he was leaving, according to the cops, wanted
18 to talk. I called Mr. Simmons and my recollection with him
19 was they then agreed that he would talk to the police and
20 that's when he incriminated his brother. Ultimately it was
21 deemed that his blood and DNA was at the scene and I said
22 Randy, they've got your blood and DNA at a murder scene.
23 How are we going the explain this? That's just law 101.

24 His version was they had planted it. And I said
25 they did not have a sample of your blood. You've never

Dennis Bolt - Direct Examination by Ms. May

1 been -- your blood had never been taken here in South
2 Carolina and they didn't obtain it anywhere else so it's
3 not going to be credible for our defense to be that they
4 planted your blood and DNA at a murder scene. I mean, that
5 would -- that would be foolish. And so on at some point,
6 you know, I said, we've got -- you know you can plead
7 guilty, there was a manslaughter offer on the table which
8 he rejected.

9 Q What were the terms of years on that?

10 A You know I talked with Mr. Swarat this morning and
11 I can't honestly under oath say what the terms were. It
12 was either a straight up flee. There may have been a cap,
13 I don't know, but it was to manslaughter and I had numerous
14 conversations with the solicitor's office here about that
15 and, you know, I told Randy, that, you know, it's a tough
16 case to defend because of the physical evidence, you know,
17 placing him at the scene.

18 I explained to him he didn't have to testify and we
19 could argue mere presence that in order that they claim you
20 were there, but that doesn't necessarily mean you killed
21 anyone. They doesn't mean you had the intent to commit a
22 crime once you went into the house. They charged him with
23 burglary, yet the victim was an associate of his. And so
24 we explained all that and ultimately, he decided that his
25 defense would be he went over there with Travis Harsey.

Dennis Bolt - Direct Examination by Ms. May

1 Travis stayed in the car, Randy went in and when they were
2 talking, Travis rushed in and sort of knocked the victim
3 down and pistol whipped him and shot him, I don't know,
4 four, five, six times with a 40 caliber handgun.

5 Q And he -- and you and Mr. Tyler decided this
6 defense together or in --

7 A Well, he decided what the defense -- I mean, I
8 can't say what a defense is. I can challenge the evidence
9 and I did look at the SLED documents and I reviewed those
10 and you know I asked Ellwood, my receptionist who does work
11 as to the pistol, they found three casings that they traced
12 to this gun. Now the bullets -- the casing is the shell
13 and the bullets are inside the casing. Now the bullets
14 were fragmented so I don't think they were able to say
15 anything about those, but they had three spent cases, which
16 they matched to the pistol according to the SLED ballistics
17 report.

18 Q Just going back a little bit, did you file a
19 discovery motion or was discovery provided to you by the
20 department?

21 A I don't remember. It was never an issue to me
22 based on my recollection today that discovery was a
23 problem.

24 Q But you received discovery materials?

25 A Yes, I mean, I new Mr. Swarat, he clerked for me

Dennis Bolt - Direct Examination by Ms. May

1 when he was in law school. I believed in Mr. Moses who I
2 knew well. And I -- they were bosom buddies, but I never
3 had an issue with providing discovery in the case.

4 Q And you reviewed the discovery with Mr. Tyler?

5 A Of course. And I talked with Mr. Tyler's mother on
6 several occasions because she would call me frequently and
7 ask about the case, you know, what does it look like. It's
8 very common in this business for that to happen, and I told
9 her.

10 Q Okay. And did Mr. Tyler provide you with any
11 witnesses that he thought might be beneficial to testify in
12 his behalf?

13 A You know, some of the witnesses, potential
14 witnesses were either related to him or related to
15 Mr. Harsey or mutual friends. There wasn't anyone who
16 could vouch for him when this man was killed. In fact, he
17 never, ever, hinted that alibi was a defense that he was
18 somewhere else. And this fellow, Jimmy Williams, I think
19 was his name, I did talk with Jimmy Williams, as I recall.
20 And you know the problem with Jimmy was he provided a false
21 alibi and he admitted that under oath at the trial. So
22 that was not good.

23 Q Do you recall reviewing Mr. Williams' statements?

24 A Yes.

25 Q That he gave to the police?

Dennis Bolt - Direct Examination by Ms. May

1 A Yes.

2 Q And did you ever listen to the audio tape of his
3 statement that's been entered into evidence?

4 A I don't recall.

5 Q Okay. And with regard to -- I'm just going to go
6 through each of the witnesses that Mr. Tyler asked that you
7 should have interviewed. First of all, Ms. Hutto's
8 brother, Johnny. Did you have a chance to interview him?

9 A No.

10 Q Was he represented by counsel?

11 A I don't remember. I remember he was the brother of
12 the victim's widow and they were pretty upset and I did do
13 some checking on these people and I think if Mr. Tyler or
14 Mr. Harsey had been there when Mr. Hutto got back, he would
15 have shot them. He's not a mild person.

16 Q Did you attempt to locate Johnny or --

17 A Johnny Hutto?

18 Q Yes.

19 A Well, I knew where he lived. That was part of the
20 discovery.

21 Q Okay.

22 A But I did not seek to interview him.

23 Q And did you review his statement that he gave to
24 the police? I believe that's been admitted as Exhibit 19?

25 A Yes.

Dennis Bolt - Direct Examination by Ms. May

1 Q And did you review that with Mr. Tyler or do you
2 recall?

3 A I can't recall if I physically reviewed it with him
4 or told him what was in it, but we reviewed all of the
5 evidence. I would go over to the jail, I would take
6 physical pieces of evidence and show them to him. You
7 could slide it under the little window there and/or I could
8 tell him what was in it.

9 Q All right. So based on your earlier statement, did
10 you make a decision that it was not -- there was no
11 reason --

12 A Here's the problem. His defense was he was there,
13 but he was merely present. So if there's a discrepancy
14 between what Mr. Hutto or the victim's widow said in terms
15 of the time frame, I don't -- we still got Randy at the
16 scene with his blood and DNA and I can't get out of that.
17 So I can try to beat up on the victim's widow, I can use
18 that as a trial strategy. I don't believe that would have
19 helped Randy. Because, now, if that hadn't been his
20 defense, if he had said I wasn't there, then well, yeah,
21 all that comes in and that's fair game, it goes to
22 reasonable doubt, but when he is there, although he has no
23 burden perhaps to explain why he's there, he has said, I am
24 there and Mr. Harsey just came in without my knowledge or
25 plan, cooperation, participation and just beat this man and

Dennis Bolt - Direct Examination by Ms. May

1 you know, I think I objected to the photographs of the
2 victim's body. They were very, very gory. He'd been
3 badly, badly beaten and he was shot several times.

4 Q And did the same reasoning go with Debra Harsey?

5 A Yeah. The Harseys were not friendly to Mr. Tyler.
6 And I know at least two of the family members -- I think
7 maybe Mr. Harsey's common law wife was charged with a crime
8 as well. I think three or four of them may have been. And
9 if -- you know, they had lawyers and I couldn't talk to
10 them. And what are they going to say?

11 Q Did you review each --

12 A I don't know, he talked about Mr. Harsey's
13 statement. I don't remember what Mr. Harsey said, but I
14 don't recall if it was exculpatory to Mr. Tyler or not.

15 Q But you reviewed each of their statements and
16 you're aware of the contents of their statements.

17 A Of course.

18 Q Okay. Do you?

19 A Feel -- did you conduct an independent
20 investigation or did you hire an investigator. I didn't
21 hire an investigator. The family didn't have any money to
22 do that. They didn't have much money at all and that's
23 okay. So I had an associate working for me at that time,
24 Trey Cox and we reviewed all of the discovery. We called
25 witnesses, talked to witnesses, talked with Randy's family

Dennis Bolt - Direct Examination by Ms. May

1 and I did everything I felt prudent to do at the time.

2 Q And I'm going to go into the specific
3 investigation, the SLED documents that were offered into
4 evidence?

5 A Right.

6 MS. MAY: May I approach, Your Honor?

7 THE COURT: You may.

8 BY MS. MAY:

9 Q First we have Exhibit No. 14, which I believe is
10 the ballistics?

11 A Right.

12 Q Did you -- were you able to review that part of the
13 trial?

14 A Yes.

15 Q And do you recall having any problems with this
16 report from SLED?

17 A No. There's also -- this -- when they give their
18 conclusions, this is a narrative, the work sheet. What I
19 recall more specifically are the findings where they said
20 they -- the cartridge cases were microscopically compared
21 to each other and it was concluded that all three cases
22 were fired by the same firearm and then, of course, the
23 fragments, they couldn't say much about.

24 Q Okay. Do you -- were you able to review these with
25 Mr. Tyler or did you relay the information contained in

Dennis Bolt - Direct Examination by Ms. May

1 those to Mr. Tyler?

2 A I don't remember. I'll just say this, I don't -- I
3 learned a long, long time ago, when you're representing
4 someone in any kind of case, I have to work as hard as I
5 can to provide them with all of the evidence because if you
6 don't and then you make a decision on it later and then
7 they feel like, you didn't tell me about this, and it's
8 just -- I think basic prudence to do that, to familiarize
9 your client with all of the evidence.

10 Q But you had occasion to review those and assure
11 yourself of the validity of those before -- prior to trial?

12 A Right.

13 Q Okay.

14 A And well, once again, the defense was that Randy
15 was merely there and that Travis rushed in and killed the
16 fellow.

17 Q Okay.

18 A So how would he benefit from challenging the
19 ballistics.

20 Q Okay.

21 A You challenge ballistics normally when you're
22 taking the position your client was not physically present.
23 He was -- not only did he say he was physically present, he
24 had said this man killed the victim.

25 Q With regard to the letter that Mr. Tyler entered

Dennis Bolt - Direct Examination by Ms. May

1 into evidence, I think they're Exhibit 13.

2 A The letters to me?

3 Q Yes. Do you recall receiving these letters?

4 A It looks like they were signed for by Karen Pool.

5 Karen Pool did work for me at the time, so I have to assume
6 I saw them.

7 Q And did you make any -- do you recall if you
8 replied to --

9 A He talks about the fee he paid. That's erroneous.
10 That may have been the fee charged, but it was not the fee
11 paid. And I don't -- that's okay. That doesn't have any
12 impact on my zeal in representing a client.

13 Q Do you feel that you had enough sufficient time to
14 prepare Mr. Tyler's case?

15 A Yes.

16 Q And I believe you already stated that there was a
17 plea offer to manslaughter and that was -- was that the
18 extent to what you recall if plea offers made?

19 A Yeah, you know, I tried to find out once before and
20 as I said, I asked Mr. Swarat do you remember offering a
21 plea of manslaughter and he said, Yeah, we offered one to
22 Mr. Harsey and Mr. Tyler. He remembered that. But none of
23 us could recall the terms. And I don't know if it was a
24 straight up plea that exposed him to a 30 year sentence or
25 if it was a cap. I just don't remember.

Dennis Bolt - Direct Examination by Ms. May

1 Q And did you discuss that plea offer with Mr. Tyler?

2 A Of course.

3 Q And it was his decision not to take it?

4 A Right. And he was very consistent with that. He
5 said I will never plead guilty.

6 Q I'm just going to go over a few of the specific
7 allegations Mr. Tyler has lodged. If you could take a look
8 at Exhibits 1 through 8. I've put them up there for you.
9 These are the photos?

10 A Okay.

11 Q Were you able to review these photos prior to
12 trial?

13 A Yes.

14 Q Okay. And you reviewed those with Mr. Tyler?

15 A Yes. Well, the ones that were provided to me
16 before his trial, I don't -- No. 1 and No. 2, I can't tell.
17 I know that they had photographs of him with scraped
18 knuckles.

19 Q Do you recall there being an issue with maybe the
20 photos being switched as he claims or that the dates were
21 mixed up?

22 A No.

23 Q And I believe Ms. Hallman testified that the -- his
24 knuckles appeared to have healing injuries. Is that
25 consistent with the photos?

Dennis Bolt - Direct Examination by Ms. May

1 A Right, yes.

2 Q Okay. And you --

3 A It being -- I can't remember at the time, he
4 actually turned himself in through the head of a -- I think
5 the fellow was a bail bondsman and I don't know how long it
6 had been between the victim's death and the time that Randy
7 turned himself in. Anyway the State's theory was that
8 there was a piece of tile in the ceiling. The allegation
9 was that the victim kept money in the ceiling, just kind of
10 like these tiles. You can go up on a ladder and push them
11 up and there appeared to be some knuckle marks on the tile
12 and there was a speck or something like that of blood and
13 that's what led to the analysis.

14 Q Okay. And I believe Mr. Tyler, the allegation that
15 you should have made a motion or somehow match -- see if
16 his hands matched the tile. Is there a reason for not
17 doing that? Or, I guess you could describe that if the
18 glove fit.

19 A We never discussed that before the trial. He never
20 asked me to do that.

21 Q Would you -- I mean if he'd asked you to do that
22 would you have advised him that would have been a proper
23 thing to do?

24 A You know, I don't know. I don't know what -- if
25 he'd done that and if the State had conducted that kind of

Dennis Bolt - Direct Examination by Ms. May

1 exam and it matched him, then it would be more evidence
2 against him.

3 Q And going to Ms. Hallman's testimony when she
4 testified, and her qualifications that she testified to,
5 did you see any reason to object to her qualifications?

6 A I wasn't in here when she testified.

7 Q I'm sorry in the trial transcript testimony?

8 A You talking about the crime scene lady from
9 Lexington County.

10 Q Yes, sir.

11 A Well, I don't recall that she offered any opinion
12 testimony. She used the word splatter, but, you know,
13 somebody whose a forensic scientist can go into splatters
14 and talk about extrapolate meanings and opinions from it.
15 I don't ever think she ever said based on the presence of
16 his kind of blood. I think she said this blood was here,
17 there was a lot of blood. This blood was here, this blood
18 was near the victim's body, this blood was on the sofa,
19 this blood was on the ceiling, whatever. But I don't think
20 she ever tried to extrapolate from her physical findings
21 any expert opinion testimony.

22 Q And Mr. Tyler --

23 A If she'd done that, then of course I would have
24 objected.

25 Q He alleged that her testimony regarding whether the

Dennis Bolt - Direct Examination by Ms. May

1 blood was transferred or 90 degree angle, that was
2 considered expert testimony. Do you feel that that was --

3 A I don't remember that testimony.

4 Q And I'm going to refer you -- is there a copy of
5 the transcript up there?

6 A I have mine over there by my briefcase. One that
7 was provided to me by I think your office.

8 MS. MAY: Your Honor, may I approach?

9 THE COURT: You may.

10 BY MS. MAY:

11 Q Now, if I could refer you to page 299. Now, this
12 is in regards to Mr. Tyler's allegation that you failed to
13 object based on Doyle v. Ohio.

14 A What is that?

15 Q Page 299. He has claimed that you should have made
16 an objection based on Doyle versus Ohio, that he had no
17 right to remain silent and his comments were used against
18 him.

19 A He didn't invoke his rights. He invoked it and he
20 gave it up and then he and his attorney who was, I believe,
21 present, gave a statement. He did not do that. And so
22 trying to get Mr. Harsey's whole statement -- I'd have to
23 look at Mr. Harsey's whole statement. I don't know what
24 she said. I would have to assume that he implicated Randy
25 in the murder.

Dennis Bolt - Direct Examination by Ms. May

1 Q Right. I'm referring to what Mr. Tyler -- when he
2 was first arrested and then as they were walking him to the
3 jail?

4 A He turned himself in. They interviewed him,
5 attempted to interview him and he said I'm not talking to
6 you, or words to that effect. He invoked his Miranda
7 Rights. When he was leaving, he attempted to make some
8 allegedly gratuitous statements and I think Detective
9 Friar or some other detective said something like, Well,
10 you need to -- I think they'd already talked to
11 Mr. Simmons, they said, Well, you've got a lawyer. And I
12 think he talked to Mr. Simmons. Just my recollection --
13 and I think Mr. Simmons may have been physically present
14 and that's when he evidently waived his Miranda Rights and
15 gave his statement, incriminating his brother. He said
16 words to the effect, you know my brother looks a lot like
17 me. He's the kind of guy that would put this off on me.
18 And you know --

19 Q So basically --

20 A So, I don't -- he did initially, I believe, invoke
21 his Miranda rights and then he waived them and had
22 consultation with his attorney.

23 Q And on your basis for not objecting?

24 A That's right. I talked to Mr. Simmons many times.
25 He's a friend of mine. And he said they never -- his point

Dennis Bolt - Direct Examination by Ms. May

1 of view was at the time he had no idea whether Mr. Tyler
2 was involved or not. They were just trying to help the
3 Lexington County Sheriff's Department solve this crime.
4 And so, I guess, they felt like maybe, Randy's brother, I
5 forget his name, was involved.

6 Q Okay. And so the same statement made by the
7 solicitor in closing, that would be the same reason for not
8 objecting to the comment on his --

9 A Right.

10 Q Okay. Mr. Tyler also -- if I can refer you to 3 --
11 he also alleged that the solicitor pitted him against his
12 codefendant without your objection. I guess in your review
13 of 303, did you see anything or do you recall any reason to
14 basically kind of object at all?

15 A Well, I think I objected -- I think somebody had
16 quoted Mr. Harsey, and I think I objected because it was
17 hearsay and it was a violation of the confrontation clause
18 and Judge Westbrook didn't agree with me. I still think I
19 was right, but he didn't agree with me. And I'm sure
20 whoever did the appeal must have asserted that ground on
21 appeal because I think it's a meritorious issue.

22 Q Do you feel that solicitor was pitting Mr. Tyler
23 against his codefendant who is not present?

24 A You know, pitting is generally, in my experience
25 one witness against another. I've never had a case where

Dennis Bolt - Direct Examination by Ms. May

1 you had a codefendant who testified and he had said what
2 the other codefendant did. You know, I don't know if he
3 opened the door to that, if it's truly pitting or not.
4 That's all I could say.

5 Q And if I could refer you to page 352. Mr. Tyler
6 has alleged that solicitor violated the golden rule asking
7 Ms. -- emphasizing subbing -- or the jury separating the
8 shoes and then -- here it is, did you have any reason to
9 object if they had that kind of violation?

10 A By -- I don't know if you can be more specific --

11 Q You're saying that the solicitor's in this, I
12 guess, asked him to put them in the views. He's limited he
13 can put in the shoes of the victim or of the defendant in
14 violation a to what he referred to as the golden rule. Did
15 you -- I mean, do you see any reason to object based upon
16 that?

17 A You know, I don't recall. I don't recall and I
18 looked at my trial notes, I don't believe I had any note
19 about that. I have actually gotten a conviction reversed
20 before on improper argument, so I believe I'm normally
21 attuned to that. Now, I just don't remember -- you know,
22 what was going on at that time. And I can't set there
23 under their the statements made by the prosecution.

24 Q Well, on page 352, it looks line 18 through 23.
25 I'm looking at the testimony or exposing, do you think

Dennis Bolt - Direct Examination by Ms. May

1 there is a basis to object to that? That statement?

2 A Well, it looks like he's referring to something I'd
3 said about Mr. Harsey. You know, one of my arguments was
4 why would Mr. Tyler want to kill this man? They were
5 friends. And I believe it came in the trial that they had
6 business dealings together and I guess if I called
7 Mr. Harsey a dope dealer and thief, why would I object.

8 Q And Mr. Tyler alleged that the solicitor misquoted
9 the law and you should have objected to -- the rules, that
10 he had to follow rules that prevented them from getting the
11 trial with him, it's on 353, lines 5 through 15. Just
12 reviewing that, did you see any reason to object to that
13 statement?

14 A You know, I may have -- no, I had -- I can't answer
15 your question because I may have had -- the defense was to
16 pit Harsey on trial. He's the murderer. Randy said Harsey
17 is the man who committed the murder. I think we
18 established that it was Harsey's gun. Harsey was a -- they
19 offered not to call him -- or any of his statements. You
20 can't use a co-conspirator's statement against him in a
21 trial where you're trying both codefendants. So since we
22 came out of the gates, so to speak, putting blame on
23 Mr. Harsey and that was the defense, you know. Maybe
24 they're trying -- well, I attack him there. You know, I
25 probably did.

Dennis Bolt - Direct Examination by Ms. May

1 Q And earlier Mr. Swarat --

2 A Then if we make a strategic gamble, I believe the
3 State's allowed to say, Well, why isn't he here. If I had
4 objected to that then they would think, well, you really
5 have no comment at all. You blasted them for not calling
6 him and now they're trying to explain why they didn't so
7 there -- how would -- how far that goes with a jury, I
8 don't think very far. I hope I made sense of that.

9 Q If I could refer you to page 360?

10 A Okay.

11 Q Mr. Tyler, I believe it was lines 14 through 20.
12 He alleged that was a prejudicial statement and you should
13 have objected specifically telling the jury that the only
14 reason to find him innocent would be an instant nonsense.
15 Do you see any grounds to base an objection to that?

16 A And to believe that the defendant's version of the
17 facts would be an insult to common sense.

18 Q Yes.

19 A No, I don't think so. I mean, no.

20 Q And then on page 357, Mr. Tyler has alleged that
21 you should have objected to a misquote of law when the
22 solicitor said, you have to believe everything that defense
23 said in order to not find the defendant guilty. Did you
24 see any reason to object to that statement?

25 A No. That's pretty common in this type of defense.

Dennis Bolt - Direct Examination by Ms. May

1 I don't think an objection will -- and let me add -- I mean
2 sometimes you feel like what's being said is objectionable
3 and then you have to make a strategical decision, what's
4 the impact if you object. Does that affect the credibility
5 of your defense or alienate the jury or what. I mean,
6 normally, I don't shy away from objecting to a closing
7 argument. I do it all the time. The judges don't like it
8 too much, but you have to do it.

9 Q Okay. And on page 329 in regards to -- where it
10 says the malice instruction or some type of instruction to
11 the jury, lines 3 through 23, I guess the entire page.
12 Based on your review or then or now, did you see any reason
13 to object to that instruct -- Mr. Moses closing on malice?

14 A Based on the -- my most recent review of the
15 transcript, I think it's -- it actually reflects what Judge
16 Westbrook charged them. I think the art I heard earlier
17 was that something about the intention to commit an illegal
18 act and I think the argument is your attributing that to
19 the drug transaction and so I don't remember the testimony
20 about a drug transaction. I think what Mr. Tyler said was
21 he had gone by there two days before because Harsey wanted
22 drugs and he was going to buy the drugs from the victim and
23 the victim didn't have any drugs and then two days later
24 was when the man was killed and that's when he was dropped
25 at Mr. Harsey's house.

Dennis Bolt - Direct Examination by Ms. May

1 Him and Mr. Harsey drove over to the victim's
2 house. Mr. Tyler got out and went in the house and I don't
3 remember, there was some -- according to his testimony,
4 some colloquy between him and the victim about buying
5 drugs. I guess that's what he means is that the argument
6 is that malice is the potential -- the part that deals with
7 the unlawful act, the intentional commission of an unlawful
8 act, that it was unfair to attribute that to a drug
9 transaction. I mean that's not what the law means. I
10 understand his argument on that, but I don't think this
11 argument as I read it is objectionable based on the judges
12 jury instructions at that time.

13 Q And you said -- your review of his instruction on
14 malice was consistent with the law and there was no reason
15 to object?

16 A At that time, yeah, I'm sure it was.

17 Q Okay. Going back to -- you recall reviewing
18 Ms. Hutto's statements that she gave to law enforcement
19 that -- the three inconsistent statements?

20 A She was the victim's wife.

21 Q Yes.

22 A Yes.

23 Q Okay. And did you review those statements with Mr.
24 Tyler?

25 A I either took copies and slid them -- you know, I

Dennis Bolt - Direct Examination by Ms. May

1 don't know how the jail is now, but at the time when I
2 would go see him or Mr. Cox and I would go together to see
3 him, you know, you have a glass plate and you have a little
4 slit at the bottom and you can slide things back and forth
5 and you know, I don't know, I either showed him these
6 things or told him what was in them.

7 Q Okay. And Mr. Tyler's alleged that those were not
8 entered -- or that you promised to introduce those at trial
9 and that you didn't. Did you have any reason or trial
10 strategy for not releasing all of her statements? And I
11 believe they're up here as an exhibit.

12 A That's Travis Harsey's statement. Donna Hutto.

13 Q Yes, that's her.

14 A Well, there's just a lot of incriminating stuff in
15 these statements, just like Travis Harsey's statement. I
16 think Travis Harsey's statement was that -- and there's a
17 lot of profanity in it and he incriminates Mr. Tyler.
18 Ms. Hutto testified. Okay. You can't seek to introduce
19 her statements until she testifies. She is, as I recall,
20 was a very compelling witness. She was clear in the
21 identification of Mr. Tyler's voice and her general
22 description of him. I'll just say like I did before, if
23 the issue is the timeline between when they went back and
24 when they called 9-1-1, I don't think that had any material
25 impact on Mr. Tyler's defense and I was afraid, it's my

Dennis Bolt - Direct Examination by Ms. May

1 recollection that putting in her other statements would
2 just -- just let -- basically just bolster her as a
3 witness. So we could try to shake her on the timeline, but
4 then this other stuff comes in.

5 Q And so did you feel they didn't have a high
6 impeachment value in cross-examining her?

7 A That's a good way to put it, yes.

8 Q And did you discuss, I guess, that strategy or
9 reasons why not to put those statements in with Mr. Tyler?

10 A I don't recall. I know that Randy was very vocal.
11 At the time, I don't think he hesitated in telling me his
12 perceptions about the others and things and I didn't try to
13 hide anything from him, so if he had an issue at the time,
14 I'm sure he would have told me what he thought.

15 Q And if I could refer you to page 57, lines 1
16 through 9. Do you -- in that statement in your opening, do
17 you ever promise to present any statements, any
18 inconsistent statements?

19 A I don't know. I'll look at it and see. On page
20 57?

21 Q Yes, sir. Lines 1 through --

22 A Did I promise to introduce statements?

23 Q Inconsistent statements, yes, from the witnesses.

24 A I don't see it. I mean, if it's in there, I don't
25 see it.

Dennis Bolt - Direct Examination by Ms. May

1 Q Does it appear that you're just merely pointing out
2 that there were statements with inconsistencies?

3 A Yeah, that's true.

4 Q With regard to Travis Harsey's statement, can you
5 explain the reason for not entering the entire statement
6 instead of just a piece of it?

7 A Well, the one thing I recall, brings up -- this is
8 on the second page of his statement, going to Corky's
9 house. On the way to I-26, Randy is mad at Corky because
10 Corky has, quote -- I hate to say this, but according to
11 his statement, fucking his old lady, end of quote. So
12 that's Harsey saying that Randy is mad at the victim,
13 because he thinks that -- I remember discussing that with
14 witnesses and that Randy allegedly had this obsession that
15 the man was having an illicit affair with his wife.

16 Which I -- based on my investigation, I didn't
17 believe it was true. I don't believe there was an affair.
18 But anyhow, you're asking me why I didn't introduce his
19 statement, because it's got a lot of incriminating stuff in
20 it.

21 He says that, Randy said I have my million dollar
22 business, which was his drug business, took from me. And
23 so he felt like that the victim had, I guess, taken his --
24 it was crystal meth business and Travis goes onto say he
25 had never been there. Randy then -- something, my pistol

Dennis Bolt - Direct Examination by Ms. May

1 out of his pants. I did not know he had the gun. He hit
2 Corky in the head several times with the gun. Corky
3 started bleeding. Randy then boarded Corky under the
4 house. I stayed outside and went to my car. I then heard
5 several gunshots. And it goes on and on, so I'd be pretty
6 dumb to put that into evidence in front of the jury.

7 **MS. MAY:** Your Honor, I'd -- beg the Court's
8 indulgence.

9 (WHEREUPON there was a pause in the proceedings.)

10 **THE WITNESS:** Let me say this. I explored the
11 opportunity to see if it's feasible to call Mr. Harsey.
12 And, you know, of course -- and I talked to his attorney --
13 but once you see what's in his statement, you know, he's
14 going to obviously say what? He's going to stick to what
15 he said and he worked pretty hard to get a deal and I think
16 he got a pretty good deal as I recall. So his testimony, I
17 assume, would have been consistent with his written
18 statement. Maybe not on every finite issue, but on the
19 ultimate issue of who killed the victim.

20 (WHEREUPON there was a pause in the proceedings.)

21 **MS. MAY:** Your Honor, I have no further questions
22 at this time.

23 **THE COURT:** All right. Cross-examination?

24 **MS. TURNER:** Thank you, Your Honor.

25 ///

Dennis Bolt - Cross-Examination by Ms. Turner

CROSS-EXAMINATION

BY MS. TURNER:

Q Mr. Bolt, did you prior to the trial, did you visit the victim's residence? Mr. Lewis' home?

A No.

Q Okay. Prior to the trial, did you receive pictures as part of the State's response to your discovery?

A It's my recollection I did, yes.

Q All right. I'm going to show you what are several pictures of the residence.

A Okay. (Showing to attorneys).

MS. MAY: I just -- I'm going to object. I don't know who took those or what the issue is here -- so.

THE COURT: Ask him if he's seen those. That's what you do. Then I'll offer it for the proof of the facts asserted.

BY MS. TURNER:

Q Mr. Bolt, have you seen those photographs before? I realize there's lots more than just one.

A They're not numbered. With respect to the first one, I do believe I've seen this photograph. It's of the victim's home and the victim -- you can see his legs protruding in front of a sofa.

(WHEREUPON there was a pause in the proceedings.)

THE WITNESS: The only way I can answer your

Dennis Bolt - Cross-Examination by Ms. Turner

1 question is, I recall -- specifically recall seeing some of
2 these photographs or photographs substantially similar to
3 them. The others, I don't have a strong recollection of
4 seeing. So I didn't look back and say I remember that
5 photograph and that photograph. I remember seeing
6 photographs of the crime scene. More than you have there
7 in my recollection. There were photographs outside of the
8 house, some cars around there and stuff like that.

9 BY MS. TURNER:

10 Q All right. Does this particular -- well, actually,
11 these two photos, three -- several of the photos that I've
12 shown you have crime scene tape on them?

13 A That's what it looks like, yes, ma'am.

14 Q Okay. And do these pictures, in your opinion,
15 strongly resemble the pictures you saw that were given to
16 you as part of the State's response to your discovery
17 request.

18 A I don't recall.

19 Q Okay. Do you recall having discussions with Mr.
20 Tyler prior to trial regarding the feasibility of
21 Ms. Hutto's statements as far as what she could see out in
22 the garage from the kitchen --

23 A Yes.

24 Q -- area?

25 A I do remember that.

Dennis Bolt - Cross-Examination by Ms. Turner

1 Q Okay. And do you remember having discussions with
2 Mr. Tyler regarding the make up of the home having a big
3 impact because he thought it impossible for her to see all
4 the way through?

5 A I remembered something like that, yes. And I think
6 he had been there. He was well acquainted with the victim
7 and I think he'd been there and I do remember -- I think I
8 remember him telling me she could not have seen him or what
9 she claimed to have seen from that kitchen window, I think
10 it was.

11 Q Okay.

12 A And I believe I remember asking her something about
13 that at trial. I may be wrong, but I do. I think I did.

14 Q Okay. I'm going to offer these photographs into
15 evidence as crime scene --

16 MS. MAY: I have no problem with the ones that
17 Mr. Bolt can somewhat recall, but the ones that he doesn't
18 remember, I object --

19 THE COURT: Just pull out the ones that he --

20 THE WITNESS: Mr. Bolt --

21 THE COURT: They're only offered as to what
22 Mr. Bolt had looked at those.

23 MS. TURNER: Right.

24 BY MS. TURNER:

25 Q Could you tell me anything that you just draw a

Dennis Bolt - Cross-Examination by Ms. Turner

1 complete blank about and just don't --

2 A (Looking through photographs.) I don't have a real
3 vivid recollection of these out door, back of the house
4 pictures. I don't know if I saw them or not. What I
5 remember, what, seven, eight years later is a lot of
6 photographs of the inside. More than what you've got here.

7 Q Okay.

8 A A lot more. Pictures in the garage because it was
9 important to the State and I think -- their allegation was
10 that this encounter -- and I think Randy said this,
11 whatever happened started in the garage and went into the
12 house. So there were a lot of pictures -- there are a lot
13 of pictures with a lot of blood which -- so, I don't know.
14 I can't sit here and say, oh I remember that particular
15 picture.

16 MS. TURNER: Your Honor --

17 THE WITNESS: But I do -- go ahead, I'm sorry.

18 MS. TURNER: I'm sorry. I would offer them for the
19 amount of weight the Court finds appropriate to --

20 THE COURT: I mean, the ones he said he remembers
21 seeing, those can come in. The other ones he don't
22 remember seeing, they can't come in. I don't know that
23 he -- that Mr. Bolt has testified that he remembers --
24 like --

25 He saw some pictures of the outside of the house.

Dennis Bolt - Cross-Examination by Ms. Turner

1 THE WITNESS: Well, the pictures I remember seeing
2 were a bigger format than this. And I -- I saw a lot of
3 pictures. I can't say that these are those pictures. I
4 just can't say that. I'd be lying.

5 Q Okay. And you never -- you did not see --

6 A I saw pictures that represented the inside of the
7 house and the garage and the outside of the house. Whether
8 those photographs that you have today are the same
9 pictures, I just can't say that, I just don't know.

10 Q Okay. Because it's been --

11 A It's been a long time, yeah.

12 Q Were some of those pictures introduced at trial?

13 A I don't remember.

14 Q Okay.

15 A Certainly not -- I tried to -- I remember trying to
16 keep the photographs of all the blood and the victim's
17 horribly beaten body out and I know Judge Westbrook didn't
18 agree with me, but -- maybe I'm wrong, but I remember -- I
19 always do that. That's my policy to and I never win on
20 that during trial.

21 Q Specifically regarding the mechanics of the house
22 because we're talking about Mr. Tyler's argument --

23 A Right.

24 Q -- regarding the impossibility --

25 A Right.

Dennis Bolt - Cross-Examination by Ms. Turner

1 Q -- to see. Did you make any arrangements to have
2 an investigator or anyone go out to the home and take
3 pictures so that you could establish the perspective that
4 the witness was going to testify to what they saw, what was
5 going on in the garage?

6 A From inside the house?

7 Q Or outside?

8 A No.

9 Q Did you send anybody to make --

10 A No.

11 Q -- individual photographs either way?

12 A I did not.

13 Q When the State introduced a video tape at trial, do
14 you recall seeing the video tape of the premises?

15 A No.

16 Q You don't recall anything about it?

17 A No.

18 MS. TURNER: Your Honor, I mentioned that earlier.
19 I would just ask that it -- that the video be put into
20 evidence.

21 THE COURT: That's the one about it being dark.

22 MS. MAY: Isn't that what Vicki Hallman did when
23 she walked through the crime scene.

24 MS. TURNER: I think that is, but it's downstairs
25 in the clerk 's office.

Dennis Bolt - Cross-Examination by Ms. Turner

1 MS. MAY: I have no objection to that.

2 THE COURT: Without objection.

3 MS. TURNER: And as well, Your Honor. I would ask
4 that any pictures that were actually admitted at trial
5 would also be --

6 THE COURT: Any pictures that were admitted to
7 trial, I'll review.

8 BY MS. TURNER:

9 Q Is -- was it -- why did you decide not to send
10 someone out so that you could establish your own
11 photographic evidence of -- the feasibility of seeing
12 straight through that house the way Donna Hutto testified
13 you could?

14 A Well, she didn't say -- I don't think she said she
15 saw straight through the house. I think she said she was
16 looking out -- I think the kitchen window. The garage, I
17 think, was on the left. The initial encounter or whatever
18 happened, I think pretty clearly was in the garage. I
19 think she saw Mr. Tyler walking into the garage. I
20 remember that coming up at trial. I remember asking her
21 about it. I don't remember what she actually said. Did I
22 make a conscious effort to, okay. Let's get a videographer
23 or photographer to go out? Did I consider that and make an
24 informed decision not to do it? I have -- I don't recall.

25 Q Okay.

Dennis Bolt - Cross-Examination by Ms. Turner

1 A In other words, I guess there's a difference
2 between just not doing it and then weighing it and saying
3 for this reason, I won't do it. But it wasn't done.

4 Q Okay. But it was a discussion -- a topic of
5 discussion with Mr. Tyler?

6 A Well, I asked Ms. Hutto about it, so I assume that
7 it was.

8 Q Okay. You testified a moment ago, please correct
9 me if I'm mistaken, but that Ms. Hutto when she testified
10 at trial, one of the reasons she decided not to give her
11 statements -- enter them into evidence, is that her
12 testimony could mention that she had a good view of -- of
13 Mr. Tyler? Is that not --

14 A No.

15 Q Was that not a consideration that you had --

16 A The key to -- the strongest part of her testimony
17 was that she identified his voice and she quoted some
18 things that were said. Mr. Tyler had a friendly, ongoing
19 relationship with the victim and Ms. Hutto, the victim's
20 wife. So, you know, the theory was, or the argument was
21 that she knew his voice and she clearly stated that she
22 heard his voice. I don't think that I said she said that I
23 made a decision based on that she had a clear view. If I
24 said that, that was wrong.

25 Q Okay. And as part of her statement in her

Dennis Bolt - Cross-Examination by Ms. Turner

1 testimony at trial -- when she testified that she heard Mr.
2 Tyler in the garage?

3 A Right.

4 Q Arguing with Corky. And then she testified that
5 there was nobody else there, I believe, to her knowledge.
6 There's no Travis, there's no anybody else. But she heard
7 the two arguing in the garage and then she saw Randy
8 walking in from outside. Would her statements not have
9 been useful in accomplishing that that would be virtually
10 impossible?

11 A You know, that sounds like that's a little
12 inconsistent. I may have asked her about it, I don't know.
13 But here's the situation. Mr. Tyler said, I was there. I
14 was in the garage. So I don't know how I could incorporate
15 the defense he wanted to by saying he was there, he was in
16 the garage, but he was merely present. He didn't commit
17 any physical act which caused the death of the victim. And
18 then try to establish by cross-examining the victim's widow
19 that he wasn't there. That's just inconsistent.

20 Q Well --

21 A And that way, you have no credibility with the
22 jury. And I told Randy before the trial, we've got to
23 decide -- you've got to decide based on the evidence and
24 give our best shot.

25 Q Would the statements not have been useful in that

Dennis Bolt - Cross-Examination by Ms. Turner

1 if Randy were in the garage as Ms. Hutto testified, then he
2 could not have been the gentleman who was walking in from
3 outside, who Ms. Hutto testified had -- was wearing a mask?

4 A Perhaps.

5 Q And is there -- was that analysis any part of your
6 decision not to move for the admission of Ms. Hutto's
7 statements into evidence?

8 A Well, I don't remember, but we decided not to go
9 into those previous statements. I'd first have to
10 cross-examine her about the statements, lay the foundation,
11 because generally that would be hearsay and you couldn't
12 just introduce a statement. You have to cross-examine the
13 witness first. You can't just pull out a statement and
14 introduce it. It's inadmissible. You have to
15 cross-examine the person first and then if they deny
16 something, then you can introduce the statement. As to
17 what analysis went into that, I don't know. I just don't
18 remember.

19 Q Did you make some defense, case notes, in
20 connection with preparing for Mr. Tyler's trial?

21 A Case notes?

22 Q Yes, sir. Or, I'm sorry, in your normal case or
23 practice, do you make notes as to critical issues at trial?

24 A Pretty often, yes.

25 Q Okay. And in this case, do you remember whether or

Dennis Bolt - Cross-Examination by Ms. Turner

1 not you made notes regarding looking at the photos of the
2 ceiling tiles and matching them with swabs?

3 A I don't remember.

4 Q Okay. Do you remember whether or not you conducted
5 any investigation into the SLED report that said that the
6 quality of the blood sample from Randy was very weak?

7 A I'm sorry, I don't understand your question.

8 Q Okay. Do you remember whether you conducted any
9 investigation into the SLED report that indicated that the
10 swab containing what was alleged to be Randy's blood was
11 very weak?

12 A No, I don't remember.

13 Q Okay. Do you remember taking any steps to
14 challenge the State's case as far as whether the State's
15 description of the banging and the forceful banging that
16 went on with the ceiling tile was consistent with there
17 being only a small -- or as small amount of blood as SLED
18 revealed there was?

19 A You know, I don't remember. The theory -- I mean,
20 I talked with the detectives as part of my investigation.
21 Many times they were very forthcoming about it. The theory
22 that I thought the police had was the victim kept a large
23 amount of money up in the ceiling tiles and somebody, you
24 know, went up and was trying to get that ceiling tile lose
25 and there were what appeared to be, or what they contended

Dennis Bolt - Cross-Examination by Ms. Turner

1 to be were knuckle marks and some blood.

2 Q Okay.

3 A I don't remember any report that that blood sample
4 was unsuitable for analysis.

5 Q Do you remember a report saying it was very weak?

6 A No, I don't remember a report saying it's weak. I
7 remember the report saying it was small.

8 Q Okay. Do you remember a report saying there was no
9 visible stain left on the tiles?

10 A I don't remember such a report.

11 Q Okay. All right.

12 A And I don't -- you know, the blood -- I guess
13 that's the blood they said that matched Mr. Tyler, I don't
14 know. There was other blood, so I just want to be specific
15 about this. That wasn't the only alleged blood found in
16 the house. But I asked Mr. Tyler about that and he never
17 said that's not my blood. He said they planted it.

18 Q Well, and he also said, did he not, that I did not
19 put it there. It's not there because I was banging on the
20 ceiling tiles?

21 A I'm sure he said that.

22 Q Okay.

23 A Words to that, yes.

24 Q So --

25 A He certainly denying trying to go up there to

Dennis Bolt - Cross-Examination by Ms. Turner

1 extensively get that minute.

2 Q Okay. There was, during the trial, a point at
3 which Mr. Swarat requested that the jury be able to go to
4 the crime scene?

5 A I don't remember. I really don't.

6 Q Do you remember going with the jury to the crime
7 scene?

8 A You know, I tried two murder cases over here round
9 about the same time, maybe 18 months apart and I know we
10 did go to the scene in one of them. One was the Mike
11 Light -- I think Randy had mentioned Mr. Light. We went to
12 the scene in Mr. Light's case.

13 Q Okay. Through --

14 A Or his. I don't remember which one it was.

15 Q I completely understand that they get a little
16 jumbled, certainly. If you'll turn to page 243 in the
17 transcript.

18 A Okay.

19 Q And I think if you'll start around line 24, 25.

20 A Okay.

21 Q If you'll just read from there until probably line
22 2 on the next page and see if that refreshes your
23 recollection. And actually, you can continue to read if
24 it's helping you, Mr. Bolt?

25 A Okay.

Dennis Bolt - Cross-Examination by Ms. Turner

1 Q Okay. Do you -- does that help your recollection
2 as to which case --

3 A Yeah, it does.

4 Q Do you remember why Mr. Swarat wanted the jury to
5 go to the crime scene?

6 A I don't even remember that he wanted them to go to
7 the scene. I just remember -- I start reading and we're
8 talking about it. Where you -- the line you told me it
9 says, we will take that up in the morning. I assume that
10 we'd already discussed it.

11 Q Okay.

12 A I don't remember if we asked it or if the State
13 requested it or if it was by mutual consent.

14 Q Okay.

15 A We had a lot of discussions in-camera and so, you
16 know, sometimes your memory gets foggy. We'd have
17 discussions about things on a pretrial basis in the judge's
18 chambers and sometimes we'd come out and rectify it on the
19 record.

20 Q Does it fit with what Mr. Tyler presented as his
21 theory of defense to you as his attorney, that he wanted
22 the jury to see -- to be able to view from that kitchen
23 window through the poolroom in the garage to where
24 Ms. Hutto testified she could see that Randy alleged was
25 not possible?

Dennis Bolt - Cross-Examination by Ms. Turner

1 A Yeah, I suppose it does.

2 Q Okay. And if you'll -- and I know your
3 recollection is not great about it after 10 years.

4 A You know, and I regret that. I wish we could do
5 PCR's much sooner after the trial. And like I said, I've
6 been here about eight times and I try to get prepared and I
7 just wasn't able to read anything before I came today.

8 Q Okay. Well, do you remember or do you recollect or
9 will the record help you recollect, that the jury was not
10 allowed in the house, even though they went?

11 A I'll take your word for it. I don't remember.

12 Q Depending on the record. So you're not able to
13 tell me why the jury wasn't allowed in the --

14 A I am not.

15 Q Do you know who owned that property?

16 A No.

17 Q Okay.

18 A I may have known that then, but I don't know it
19 now.

20 Q Mr. Bolt, if you would please refer to page 310?

21 A Page 310?

22 Q Yes, sir. And I'm referring to line 25 through
23 311, lines 1 through 22, if you could just review those for
24 me.

25 A I'm sorry, I couldn't hear you.

Dennis Bolt - Cross-Examination by Ms. Turner

1 Q I'm sorry. If you could review line 25 on 310
2 through line 22 on 311?

3 (WHEREUPON there was a pause in the proceedings.)

4 THE WITNESS: Through line what?

5 BY MS. TURNER:

6 Q 22.

7 A Okay.

8 Q Okay. And in this action, in Mr. Tyler's trial, he
9 was not charged with any drug related crimes, is that
10 correct?

11 A He was charged with murder, burglary and maybe
12 conspiracy.

13 Q Uh-huh. But not drugs. He wasn't charged with any
14 drugs?

15 A No, no, not in this trial, no.

16 Q The prior bad acts that are referred to on pages
17 310 and 311, deal with his prior --

18 A I don't know what they deal with -- what you asked
19 me to read was that I objected and then I conferred with
20 Mr. Tyler and then I guess after talking with him I changed
21 my position and told the judge to leave it in.

22 Q Okay. Do you have any recollection as --

23 A I don't know why he would want to leave that charge
24 in.

25 Q Do you know why you would have -- or what you would

Dennis Bolt - Cross-Examination by Ms. Turner

1 have advised him at this point?

2 A Well, I objected to the charge. And the judge
3 says, if you want it out, Mr. Bolt, I don't know that
4 there's any problem taking it out. And I said I would like
5 it out. Mr. Swarat said, I just want to make sure, on the
6 record, he is asking to have it taken out. Yes, sir. And
7 that his client agrees with it. Yes, sir, Mr. Tyler, do
8 you understand what Mr. Bolt is wanting to do with it.
9 Just one second. And I said leave it in. So I guess Mr.
10 Tyler told me to leave it in.

11 Q Okay. Do you recall at any point saying to -- do
12 you recall how long that conversation was with Mr. Tyler?

13 A Absolutely not.

14 Q You don't recall anything about that --

15 A I don't even recall the charge about prior bad
16 acts. I don't even know where that came from. But I
17 objected, so I must have thought it was inappropriate.

18 Q Okay. Now, you said that Mr. Tyler must have
19 advised -- or instructed you to leave it in. Is there
20 anything in this record that reflects that?

21 A No. But I think it's a fair reading of the
22 transcript that I was pretty firmly opposed to that and
23 then I confer with my client and I change my position,

24 so --

25 Q You don't remember what that conversation with your

Dennis Bolt - Cross-Examination by Ms. Turner

1 client was?

2 A I would just infer it was something he asked me to
3 do.

4 Q But you don't have any recollection as to what you
5 said to him or what he said to you in response?

6 A No. Maybe I just arbitrarily decided to change my
7 position. I don't know.

8 Q Okay. If you would turn --

9 THE COURT: How long do you think your cross is
10 going to take? I'm just trying to figure out when we need
11 a break. Just a short one.

12 MS. TURNER: Your Honor, I have three more issues.

13 THE COURT: Let's break. We'll take a ten minute
14 recess. Does anybody else want a pack of crackers for
15 lunch? That's all we're having for lunch. Court is in
16 recess until 5 after 3.

17 MS. TURNER: Thank you, Your Honor.

18 (WHEREUPON a recess was observed.)

19 THE COURT: You may continue your cross-examination
20 of Mr. Dennis Bolt.

21 We only had crackers. I wouldn't ask you to do
22 anything I didn't do.

23 MS. TURNER: We didn't leave the courtroom, Your
24 Honor.

25 ///

Dennis Bolt - Cross-Examination by Ms. Turner

1 BY MS. TURNER:

2 Q All right. We were talking about the prior bad
3 acts.

4 A Right.

5 Q And we've been through the conversation that you
6 had with Mr. Tyler on 310 and 311. Could you go with me,
7 please, to page 372?

8 A All right.

9 Q And I'm referring here to the charge that indicates
10 that in order to convict, not only the State must prove the
11 killing of Mr. Lewis, but that it was done with malice
12 aforethought and the law of malice is referred to as a term
13 of art. In other words, that it's a technical term that
14 manes --

15 A 373?

16 Q I was reading from 373, I was supposed to be
17 reading from 372. I apologize very much. If you'd start
18 at line 7. And it's the judge's charge regarding, now, you
19 also heard evidence of allegations of prior bad acts by the
20 defendant referring to drugs. You may consider that
21 evidence only for the limited purpose of determining motive
22 or intent of the defendant. You may not consider it and
23 you must not consider it to determine guilt, nor may you
24 consider it as to the character of the defendant.

25 Is it not -- or in Mr. Tyler's case where the

Dennis Bolt - Cross-Examination by Ms. Turner

1 reason that he was there -- the reason that he and
2 Mr. Lewis were friends and had a lot of dealings, the fact
3 that that had to do with drugs but that drugs had nothing
4 to do with any -- according to Mr. Tyler and according to
5 his theory of defense, had nothing to do with the malice
6 requirement or prior bad acts being used to show malice.
7 Would that not in your opinion warrant a clarification to
8 the jury that in this case, the prior bad agents should not
9 be viewed as showing malice?

10 A That would bring more attention to the bad acts. I
11 thought we had accomplished that we objected to the prior
12 bad acts charge and then I conferred with Mr. Tyler and
13 changed the position we took. So if we withdrew our
14 objection, all I can say is perhaps, you know, that short
15 charge satisfied whatever issues we had with it. I don't
16 know.

17 Q Okay. Is it not possible that a charge that
18 clarified --

19 A I don't know what prior bad acts they're talking
20 about.

21 Q Is it possible that a --

22 A I think Mr. Tyler -- I can't remember if he had a
23 record.

24 Q Well, if you'll look on 372, at line 7 and 8?

25 A Uh-huh.

Dennis Bolt - Cross-Examination by Ms. Turner

1 Q Now, you also heard evidence of allegations of
2 prior bad acts by the defendant referring to drugs. Are
3 you saying that you don't know what drugs or --

4 A Looking back, I don't know what they're talking
5 about. Prior bad acts are different, generally, from your
6 criminal history.

7 Q Right.

8 A If you have a criminal history, you take the stand,
9 if it's an impeachable offense, you can be asked about it.
10 Prior bad acts are normally uncharged bad acts that have to
11 relate somehow to the case at hand. And that's what type I
12 was objecting to any charge on prior bad acts. And then
13 for some reason as we've discussed earlier, I conferred
14 with Mr. Tyler and withdrew our objection. So I don't know
15 why. I don't know what we were thinking about, what he and
16 I discussed.

17 Q Okay. If you'll look at page 187, it's going to be
18 line 22?

19 A Uh-huh.

20 Q This is your cross-examination of Ms. Hutto and you
21 asked her had Randy and Mr. Lewis been in the drug
22 business?

23 A Right.

24 Q Together. Are those not the prior bad acts that
25 were being referred to in this jury charge?

Dennis Bolt - Cross-Examination by Ms. Turner

1 A Probably. And I don't know -- I don't know if --

2 Q Now, does that explanation that you just gave as
3 far as their admissibility, does that qualify as prior bad
4 acts that should have been charged to the jury as being
5 available to -- to show motive and intent?

6 A Well, I'm not a professor or a judge, but, you
7 know, we talked about this earlier, I guess the thing is
8 like this. Mr. Moses has made the argument that malice is
9 the intentional doing of an unlawful act. He didn't
10 specify what that act was. Perhaps the State's theory
11 was -- the act was a drug transaction. I mean, I don't
12 know. He didn't -- I don't think he specified in his
13 closing statement what intentional act he was talking
14 about.

15 Once again, it's my recollection that Mr. Tyler
16 talked about, you know, the drug activity and it was part
17 of the case, so I don't know how to answer that.

18 Q Okay. Is it possible that a charge clarifying that
19 Mr. Lewis and Mr. Tyler simply having prior drug
20 transactions together was not evidence of motive of intent
21 of this murder, could have helped clarify that issue to the
22 jury? I understand it's --

23 A Right, I understand. I think the charge that was
24 given was more or less in terms of innocuous in terms of
25 what it could have been and I don't know what was going

Dennis Bolt - Cross-Examination by Ms. Turner

1 through my mind at the time, but it looks in retrospect
2 that it was probably prudent not to bring more attention to
3 it.

4 Q Okay. Do you know if you went through that
5 analysis at that time?

6 A No, I don't know.

7 Q Okay. Do you recall whether the judge in this case
8 charged the jury with criminal intent?

9 A I don't know what you mean.

10 Q Well, with the necessity that there be actual
11 criminal intent under like -- what we common law --

12 A You mean the whole what we called mens re --

13 MS. MAY: Your Honor, I'm going to object. I don't
14 think any instruction of criminal intent in my direct or in
15 any of the allegations.

16 THE COURT: Well, I mean, this is
17 cross-examination, so I'm giving her a little bit of
18 leeway. But I think he just answered it.

19 BY MS. TURNER:

20 Q I -- was that --

21 A What's your question?

22 Q Was it charged? Was criminal intent charged?

23 A To the extent that malice incorporates intent, yes.

24 Q Okay. And I guess what Mr. Tyler's issue here is
25 even in retrospect, do you think that an appropriate

Dennis Bolt - Cross-Examination by Ms. Turner

1 clarification of the prior bad acts charge would have
2 allowed the jury more appropriate consideration of the
3 actual elements here?

4 A Well, I'm having a hard time answering that. I
5 mean, prior bad act acts, that's not an element of anything
6 he was charged with. That's just evidence of guilt over
7 all. I made a pretty strong argument, I thought, about,
8 you know, there are three possible theories by which he
9 could be guilty of murder. He could have killed the man
10 himself, he could be guilty under the hand of one is the
11 hand of all or he could have been an accomplice. There are
12 three distinct ways by which he could have been guilty of
13 murder. And my argument to the jury was, okay. So he was
14 there. He was this man's friend. Why would he kill him?
15 What intent -- what crime did he intend to commit when he
16 went there. And that went to the burglary more than
17 anything. So he entered the man's house. He was his
18 friend. You have to infer he had a right to be there.

19 Okay. So what intent did he have to commit a
20 crime? What crime? And, of course, the counter argument
21 is, well, he killed a man, so his intent was to kill him.

22 Q Right. And I think that the point here is that the
23 jury could have inferred that the intent to commit a crime
24 was the intent to do some sort of drug deal?

25 A Yeah, I don't think the State has to specify what

Dennis Bolt - Cross-Examination by Ms. Turner

1 crime you intend to commit. I've had this in other cases,
2 where you feel like that ought to have to say what it is,
3 the person who intends to do when they get there, but I
4 don't believe the law requires that.

5 Q Might it not have been prudent to request a charge
6 clarifying that that though was not the intent to commit
7 the drug transaction was not intended as a showing of
8 malice for the jury's sake?

9 A I'm sorry. I'm not following you. I'm not trying
10 to be evasive.

11 Q No, I understand that you're not. I'm trying to
12 figure out how to answer that question a little more.

13 A Well, for the record, as we said before, I objected
14 to the prior bad acts charge. I didn't think it was
15 appropriate. I conferred with Mr. Tyler and I changed my
16 position. I don't know what we said. It's not on the
17 record, of course, it shouldn't be on the record. So once
18 we waive our objection to prior bad acts, the charge on
19 prior bad acts, the charge came in.

20 Q Right.

21 A And so the question is, did I not ask -- did I have
22 for a separate alternative charge or a clarification? No,
23 I didn't and I don't know why I didn't.

24 Q Okay. And under -- under the charge as it was
25 given to the jury, was the jury allowed to infer motive and

Dennis Bolt - Cross-Examination by Ms. Turner

1 intent from the fact that Mr. Tyler and Mr. Lewis had done
2 some drug deals together and perhaps planned to do some
3 business that night?

4 A I can't answer that.

5 Q Okay. All right. If you could refer to
6 Mr. Harsey's statement?

7 A Which Harsey.

8 Q Travis.

9 A Okay.

10 Q I believe in reading from his statement, you
11 pointed out that -- that there was a lot of incriminating
12 evidence in there against Mr. Tyler, which might have been
13 the reason you decided not to put the whole thing in.

14 A Well, as I said earlier, he said that Randy was mad
15 at Corky, the victim because as Randy stated to Harsey,
16 Corky had taken his meth, crystal meth business, was having
17 an illicit affair with Mr. Tyler's wife. He was mad. He
18 had taken his drug business and I thought, wow. That's all
19 the motive the jury needs to convict him. And then he went
20 onto say that Randy pulled his pistol.

21 He had Harsey's pistol and that's the same that
22 Harsey's little brother burned and he hit Corky in the head
23 several times. And see, they both said the other guy did
24 it. Something started and I left. So that was a kind of
25 quandary we were in in terms of to have developing a trial

Dennis Bolt - Cross-Examination by Ms. Turner

1 strategy. Randy said we went there and Travis pistol
2 whipped him. Travis said we went there and Randy pistol
3 whipped him and killed him.

4 Q Right. But rather than the very small part of
5 Mr. Harsey's statement that actually got in at trial that
6 only he accused Randy --

7 A Right.

8 Q -- his statement also includes or second statement
9 includes at the very beginning Mr. Harsey admitting, I lied
10 when I said I didn't have anything to do with the gun when
11 Randy and I left Corky's while in my car?

12 A All right.

13 Q Would that -- I mean, that's not evidence that
14 makes Mr. Tyler look more guilty. It's evidence that would
15 actually would be disparaging on Mr. Harsey, right?

16 A Well, it's certainly disparaging not to tell the
17 truth and to actually lie.

18 Q Okay.

19 A But the issue I understand it is, is why didn't I
20 offer to introduce or try to introduce Mr. Harsey's entire
21 statement. Mr. Harsey's entire statement, I can't imagine
22 anything more incriminating than that. So to trap him up
23 on some inconsistent -- some collateral inconsistency and
24 let in a statement that says my client pistol whipped and
25 murdered this man, he was mad at him for having an affair

Dennis Bolt - Cross-Examination by Ms. Turner

1 with his wife and mad at him for steeling his drug business
2 would have been incompetent.

3 Q Okay. Well, why not then introduce just another
4 part of Mr. --

5 A I don't believe that's permissible. I don't
6 believe we would have been able to cherry pick portions of
7 his statement to introduce it, because the guy was not
8 called as a witness at the trial and he was a codefendant.

9 Q That's exactly what the State did, though?

10 A What?

11 Q Cherry picked part of Travis Harsey's statement?

12 A And I objected to the hearsay.

13 Q Right. But it got in.

14 A Right, so -- that would have been resolved on his
15 appeal, I would think. In order, you're asking me, you
16 objected and you lost. Why didn't you then introduce
17 Harsey's entire statement. I just couldn't do that. That
18 would just so harm my client.

19 Q Well, okay. There's also a statement in here, and
20 I'm referring to page 3 of Mr. Harsey's original statement?

21 A Right.

22 Q That -- and I believe you read from this earlier
23 but you didn't quite get this far, where Travis says, I
24 waited at my car. Randy came to the car. He was now
25 wearing a mask and gloves.

Dennis Bolt - Cross-Examination by Ms. Turner

1 A Right.

2 Q If Travis is at that point saying that Randy was
3 wearing a glove, is that not inconsistent with the State's
4 theory that Randy was -- that reason his blood got on the
5 ceiling because he was pounding it with bare hands?

6 A Yeah, sure.

7 Q Okay. And one more thing that Mr. Tyler wanted
8 note made of in the voluntary statement of Mr. Harsey was
9 that Mr. Harsey alleged initially that he had offered Mr.
10 Tyler just a substantial sum of money, \$2,000 if he just
11 wanted it. Is that -- I mean would that not go to show
12 that the State's theory that Randy was needing money that
13 night was --

14 A Where is that? I don't recall.

15 Q I'm sorry. It is on page 2 of 3, it is one, two --

16 A And that's the statement dated 6/25.

17 Q This is the initial one.

18 A Dated 6/25?

19 Q July 16, 2002.

20 A No, I'm sorry, I'm looking at the date the notary
21 commission expires. 16?

22 Q Uh-huh.

23 A And what page?

24 Q Two.

25 A Okay.

Dennis Bolt - Cross-Examination by Ms. Turner

1 Q It starts on the second one, but...

2 A I don't -- I told Randy if he wanted \$2,000 period
3 that come over -- other I guess that's a separate sentence
4 but I guess I told him if he wanted \$2,000 to come over.

5 Q And then --

6 A That's in Mr. Harsey's statement.

7 Q Okay. Would that not go to show that Mr. Tyler was
8 in a bad state for money and somewhat defending the State's
9 theory of the case?

10 A Well, if that was their theory of the case, I guess
11 it could have some, you know, I don't know what \$2,000
12 would have meant to Mr. Tyler. I mean...

13 Q Okay. Right. And to your recollection was robbery
14 a part of the State's theory as to why they went there?

15 A I don't recall. And I don't recall that they
16 actually specified. They may have, I just don't remember.

17 Q Okay.

18 A You know, you don't have to articulate a theory.

19 Q Are -- I'm sorry if you could give me just a
20 moment?

21 MS. TURNER: I'm done, I think.

22 THE COURT: Any redirect?

23 MS. MAY: No redirect, Your Honor.

24 THE COURT: Thank you. You may step down.

25 THE WITNESS: Thank you.

Dennis Bolt - Cross-Examination by Ms. Turner

1 MS. MAY: Nothing else from the State.

2 THE COURT: All right. Nothing else from the
3 State.

4 Is there any reply rebuttal testimony?

5 MS. TURNER: Well, actually, Your Honor, my client
6 has asked me to proffer the crime scene photos.

7 THE COURT: You may proffer those.

8 MS. TURNER: And under the theory that although
9 Mr. Bolt can't remember the specific pictures, these are,
10 in fact, pictures of the crime scene.

11 THE COURT: Well, that's your burden to prove, not
12 his.

13 MS. TURNER: Right. But when compared with the
14 video tape, the pictures will dispute the statement saying
15 regarding the --

16 THE COURT: If I remember the reason they didn't
17 come in is because there's no identification as to who took
18 the pictures or when they were taken; is that correct.

19 MS. TURNER: Well, it's because --

20 THE COURT: Is that correct?

21 MS. MAY: Yes.

22 THE COURT: That's what your objection was?

23 MS. MAY: Yes, sir.

24 THE COURT: Okay.

25 MS. TURNER: And specifically, Your Honor, just for

Dennis Bolt - Cross-Examination by Ms. Turner

1 the record we are referring to page 303 of the transcript,
2 lines 15 through 19.

3 THE COURT: Okay. Very well.

4 Anything else?

5 MS. TURNER: Do I need to get an envelope to put
6 these in?

7 THE COURT: That would be good. Otherwise, I might
8 look at them and consider them.

9 All right. I will take this matter under
10 advisement. When I make my ruling, I will let you know.

11 * * * * * END OF TRANSCRIPT * * * * *

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Dennis Bolt - Cross-Examination by Ms. Turner

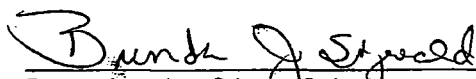
1 State of South Carolina)
 2 County of Aiken) Certificate of Reporter
 3
 4
 5
 6 I, THE UNDERSIGNED, Brenda J. Sigwald,
 7 Official Court Reporter for the Fifth Judicial Circuit of
 8 the State of South Carolina, do hereby certify that I
 9 reported the proceedings in the captioned case in the Court
 10 of Common Pleas in and for the State of South Carolina on
 11 the 2nd day of February, 2012.

12 I FURTHER CERTIFY that the foregoing pages,
 13 numbered 1 through 202 constitute a true, accurate and
 14 complete transcript of said hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,
 16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
 18 seal at Aiken County, this 22nd day of October.

19
 20
 21
 22
 23
 24
 25


 Brenda J. Sigwald,
 Court Reporter and Notary Public
 For the State of South Carolina
 My commission expires
 January 4, 2020.

UO2-8714

CV

CEN

GUNSHOT RESIDUE ANALYSIS INFORMATION FORM

(Fill out all information requested then return form to kit envelope)

Collecting Officer's Name: Vicki Hallman Badge No. 373Collecting Agency's Name: Lexington City Sheriff Agency Case No. 00-587292☒ Homicide ☐ Suicide ☐ Assault ☐ Drive By ☐ Other: _____
(Describe)**SUBJECT INFORMATION**Subject's full name: John Marshall Hutto DOB: 12-12-56Subject is: ☒ Living ☐ DeadSubject is: ☒ Right-handed ☐ Left-handed ☐ UnknownAny debris and/or blood on subject's hands? ☐ Yes ☒ No

If yes, describe: _____

Has subject washed his/her hands since shooting? ☐ Yes ☒ No ☐ UnknownSubject's occupation: CarpenterSubject's hobbies: Bows & arrows, fishingWrite a brief description of subject's activity between the time of the shooting and the time of the GSR collection: Sister came to residence & he went back to incident location w/

EXHIBIT

Feltman 2-1-12
9**SHOOTING INFORMATION**Date and time shooting occurred: Date: 7-14-02 Time: 0030 ☒ am ☐ pmPlace (example — in kitchen, parking lot, indoors, outdoors): indoorsType of firearm used: unknown Caliber: 40Caliber of ammunition used: 40 Manufacturer of ammunition: S & WNumber of shots fired: unknown - multiple

* Note: If cartridge manufacturer is unknown, draw head stamp here.

Base of Cartridge

Collecting Officer's Signature: Vicki HallmanDate: 7-14-02 and Time: 085 ☒ am ☐ pm of GSR collection.



DEPARTMENT OF
FORENSIC SEROLOGY AND
DNA ANALYSIS

Date: 11-19-02

Analyst: Pilley

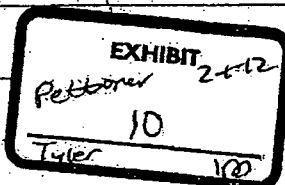
Reviewer: RRF

ABAcard Result Sheet

	Case/Sample	Hematrace	P30	Comment
1	~~02-8714~~ - 20	+		
2	21	+		
3	22	+		
4	~~23~~	+		<u>weak</u>
5	24	+		
6	25	+		
7	26	+		
8	02-9731 - 20.1	+		
9	20.3	+		
10	20.4	+		
11	20.6	+		
12	01-12698 - 3.1	+		
13	3.2	+		
14	3.3	+		
15	4.1	=		
16				
17				
18				
19				
20				

Comments: _____

Isotonic Saline SC



ABAcard SC 1199 + 1317

SLED Forensics Form # DNA 032, March 2000

12 AR L02-8714



DEPARTMENT OF
FORENSIC DNA ANALYSIS
Evidence Worksheet

Lab #: 102-8714
Analyst: Piley
Date: 11-7-02
Victim: Robert Lewis
Subject: _____

Case No.	Exhibit No.	Exhibit Description	Quantity	Source	Tested	Results	Remarks
8		Blood - Robert Lewis				✓	
20		Swab - marked G				✓	
21		Swab - marked H1	+			✓	
22		Swab - marked H2	+			✓	
23		Swab - marked H2	+			✓	
24		Swab - marked ceiling	+			✓	
25		Swab - marked garage	+			✓	
26		Swab - marked box	+			✓	
27		SK-Randall Tyler					
27.1		Blood				✓	
27.2		Saliva				✓	
28		SK-Mario Hansen					
28.1		Blood				✓	
28.2		Saliva				✓	

EXHIBIT
Piled
11
2412

States 12

VOLUNTARY STATEMENT
(Not Under Arrest)

751

I, DONNA M. HUTTO, am not under arrest, nor am I being detained for
criminal offenses concerning the events I am about to make known to DETECTIVE

S. R. FRIER.

SEP. 03.02

168

Without being accused of or questioned about any criminal offenses regarding the facts I am
about to state, I volunteer the following information of my own free will, for whatever pur-
poses it may serve.

I am 41 years of age, and I live at _____ Hwy. North SC.

I HAVE BEEN LIVING WITH ROBERT "CORKY" LEWIS FOR ABOUT
10 YEARS. TONIGHT, WE WERE AT HOME ALONE. CORKY
WAS WORKING IN THE GARAGE. I FELL ASLEEP ON
THE COUCH AROUND 10:00PM. I WAS WOKEN UP
BY RANDY TYLER YELLING WITH CORKY AND THE DOG
BARKING. RANDY SEEMED TO BE ANGRY AT CORKY, BUT
I COULDN'T MAKE OUT WHAT RANDY WAS SAYING. I KEPT
HEARING CORKY SAY, "RANDY, I AINT DID NO KINDA
SHIT LIKE THAT." RANDY SAID, "COME ON, LETS
GO IN THE HOUSE." CORKY SAID, "NO, THERE AINT
NO NEED TO GO INSIDE." I WAS SO AFRAID OF
WHAT I WAS HEARING, I THOUGHT TO GO HIDE IN
THE BATHTUB. I WENT TOWARDS THE POOL ROOM IN THE
KITCHEN WHERE I COULD SEE INTO THE GARAGE. I
SAW RANDY TYLER WALKING INTO THE GARAGE. I COULD NOT
SEE HIS FACE, BUT I COULD TELL BY HIS BUILD, HIS
MOVEMENT AND HIS VOICE THAT IT WAS RANDY TYLER.
I AM POSITIVE OF THAT. CORKY SOUNDED LIKE SOMETHING

I have read each page of this statement consisting of 3 page(s), each page of which bears
my signature, and corrections, if any, bear my initials, and I certify that the facts con-
tained herein are true and correct.

OCT. 14.02

168

Dated at SAVANNAH Hwy., this 14 day of JULY 2002

WITNESS:

WITNESS:

Phillip A. Dine

Donna M. Hutto
Signature of person giving voluntary statement.

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 2 of 3 pgs

DONNA M. HUTTO

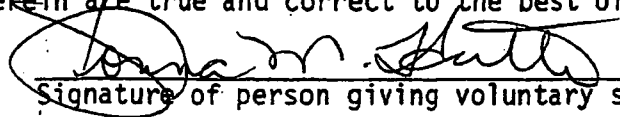
WAS WRONG, AND CORKY KEPT TELLING HIM THEY DIDN'T NEED TO GO IN THE HOUSE. RANDY SOUNDED LIKE HE WAS MAD. I BECAME AFRAID, RAN OUT OF THE FRONT DOOR, GOT INTO MY CAR, AND THEN DROVE TO MY BROTHERS HOUSE. HE LIVES ON LUCAS RD. HIS NAME IS JOHNNY. I ASKED JOHNNY TO CALL THE POLICE. I TOLD JOHNNY THAT RANDY AND CORKY WERE HOWERING AND I THOUGHT THAT RANDY WAS GOING TO HURT CORKY. JOHNNY CALLED THE POLICE. JOHNNY AND SUSAN AND I THEN DROVE BACK TO MY HOUSE. I SAW CORKY IN THE DOORWAY. I SEEN BLOOD.

SEP.03.02

169

I HAVE KNOWN RANDY TYLER FOR 1 OR 2 yrs. CORKY AND I HAVE BOTH KNOWN HIM, BUT CORKY KNOWS HIM BETTER THAN I DO. RANDY IS MARRIED TO GINA. THEY USED TO LIVE ON PLACID VALLEY RD. I BELIEVE HE USED TO LIVE IN PINE TREE M.H.P. HE LIVES SOMEWHERE NEAR FORT JACKSON. I HAVE NEVER BEEN THERE. RANDY HAS BEEN TO OUR HOUSE 5 OR 6 TIMES BEFORE. HE IS APP. 30-40 yrs OLD. HE HAS SILVER/WHITE HAIR. I AM POSITIVE BEYOND ANY

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.


Signature of person giving voluntary statement

Sworn to before me this 14 day of July 2002


Notary Public of South Carolina 06/25/2007

OCT.14.02

169

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 3 of 3 pgs

I DOUBT THAT RANDY TYLER IS THE MAN I
SAW AT OUR GARAGE TONIGHT THAT WAS ANGRY
AND YELLING AT CORY.

END OF STATEMENT

~~DMH~~

SEP 03.02

170

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

[Signature]
Signature of person giving voluntary statement

Sworn to before me this 14 day of July @ 2002

[Signature]
Notary Public of South Carolina

06/25/2007

OCT. 14.02

170

VOLUNTARY STATEMENT
(Not Under Arrest)

I, Donna Marie Hutto, am not under arrest, nor am I being detained for
any criminal offenses concerning the events I am about to make known to DETECTIVE

Fossom

Without being accused of or questioned about any criminal offenses regarding the facts I am
about to state, I volunteer the following information of my own free will, for whatever pur-
poses it may serve.

OCT. 14.02

172

SEP 03.02

172

am 41 years of age, and I live at SAUAWAIT HWY SWANSEA, SC

DO I CAME BACK TO MY HOUSE AFTER GOING TO JOHNNY
& SUSAN'S (WISE) HOUSE TO GET THEM. I WAS DRIVING
MY TOYOTA-JOHN & SUSAN RODE WITH ME. JOHNNY & SUSAN
CALLED 911 BEFORE WE LEFT. WHEN I GOT BACK TO MY HOUSE,
ME & JOHNNY GOT OUT OF THE CAR. WE WALKED UP TO THE
FRONT PORCH. THE FRONT DOOR WAS OPEN AND THE SCREEN
DOOR WAS Ajar - IT MIGHT HAVE BEEN WIDE OPEN. I
COULD SEE "CORKY" LAID ON THE GROUND JUST INSIDE
THE DOORWAY. "BO-BO" [DOG] WAS BY "CORKY'S" LEGS.
ANY OTHER TIME THE DOOR WOULD BE OPEN LIKE THAT "BO-BO"
WOULD HAVE RAN OUT AFTER THE CATS. I BROUCHED DOWN
AND REACHED IN AND TOUCHED HIS ARM THAT LOOKED LIKE IT
HAD A HOLE IN IT - I TRIED TO WAKE HIM. HE DIDNT MOVE
OR SAY NOTHING. I WANTED TO GO IN THE HOUSE BUT JOHNNY
SAID I COULDN'T. HE TOOK ME BACK TO MY CAR & "BO-BO"
CAME. SUSAN SAID SHE WAS SCARED. WE GOT BACK IN THE
CAR AND DROVE OUT OF THE DRIVE, TURNED RIGHT ONTO SAUAWAIT
HWY. WE GOT LESS THAN A MILE WHEN WE SAW BLUE LIGHTS

I have read each page of this statement consisting of page(s), each page of which bears
my signature, and corrections, if any, bear my initials, and I certify that the facts con-
tained herein are true and correct.

dated at 1839 Savannah Hwy, this 14 day of July 2002

WITNESS:

WITNESS:

Donna Marie Hutto
Signature of person giving voluntary statement.

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 2 of 2 pgs

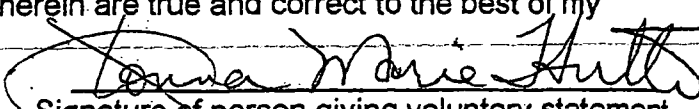
COMING TOWARD US IN THE OTHER LANE. WE
 TURNED AROUND AND FOLLOWED THE DEPUTY BACK
 TO MY HOUSE. THEN ALL THE COPS STARTED SHOWING
 UP. I REMEMBERED "CORKY" SAYING, "RANDY, I
 AIN'T DONE NOTHING LIKE THAT." HE [CORKY] CALLED
 HIM "RANDY." I HEARD THIS EARLIER WHEN THEY
 WERE ARGUING - RIGHT BEFORE I LEFT TO GO
 TO JOHNNY'S HOUSE FOR HELP. (DMH)

OCT. 14.02 173

SEP. 03.02 173

End of Statement

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.


 Signature of person giving voluntary statement

SWORN TO BEFORE me this the
 ____ day of ____ 20 ____

NOTARY PUBLIC SOUTH CAROLINA

VOLUNTARY STATEMENT
(Not Under Arrest)

I, Donna Marie Lutto, am not under arrest, nor am I being detained for
any criminal offenses concerning the events I am about to make known to DET. J. B. Quig
C.C.S.D. SEP. 03.02 174

Without being accused of or questioned about any criminal offenses ^{OCT 14 02 174} regarding the facts I am
about to state, I volunteer the following information of my own free will, for whatever pur-
poses it may serve.

I am 41 years of age, and I live at Savannah Hwy. North.
On Sat June 13, ^{DMH} ~~I left at 7:30~~ I went to Piggie Park to
get me & Corky something to eat. After we ate
Corky asked if I wanted to help him on the trailer,
I told him no. So he went back in the shop to work
on the trailer. At about 10:15 I ^{DMH} ~~laid~~ laid down on
the couch and fell asleep, because we had been
fishing all night the night before and I was tired.
At about 11:00 or 11:15 our dog was barking & coming
inside the house, he jumped on me, ~~we~~ also heard
someone arguing outside in the shop. I went to
my bedroom to get a cigarette and ~~when~~ then I went
to kitchen window, I saw Randy walk into the shop
from the right. ^{DMH} ~~when~~ I heard Corky say I aint
done nothing like that Randy, I aint ^{DMH} ~~done~~ no kinda
shit like that. That's when I started ^{DMH} ~~getting~~ getting scared
I went to Corky's bedroom & peed & looked out
the blinds to see if Randy's car was outside. I
was very scared because I've heard Randy say

I have read each page of this statement consisting of page(s), each page of which bears
my signature, and corrections, if any, bear my initials, and I certify that the facts con-
tained herein are true and correct.

ated at C.C.S.D., this 15 day of 7 ²⁰⁰² 19.

WITNESS:

WITNESS:

[Signature] # 304 C.C.S.D.

Donna Marie Lutto
Signature of person giving voluntary statement

ENC#1A

Pg 2 of 5 pgs

somethings that he would do to people and not think
 nothing about it. I didn't know what to do. Then
 I heard Randy tell Corky to go in the house.
 Corky told Randy we don't need to go in the house.
 The way Corky said that made me feel like I
 needed to get the hell out of the house, like he
 was warning me to get out. I unlocked the door
 and ran to my car, thinking Randy would be behind
 me. ^{DMH} I got in my car and I guess it was
 about 11:25 when I got in my car & went to my
 brother's house (Johnny) probably took me 10-12 min.
 I went in Johnny's crying & screaming & told him
 Randy & Corky was arguing and I thought Randy
 was gonna kill Corky to please go help Corky.
~~Johnny told me to call police, but~~
 I said no ^{DMH} because the police would be too
 late to help Corky. About ^{DMH} 11:42 Johnny got a gun
 and left the house to go help Corky. He told me
 & Susan to stay there. Me and Susan sat in my car
 that was facing the road in case Randy showed up
 I would have a chance of running over him. We
 got worried about Johnny so we left there house

I have read this page, initialed corrections or changes, if any, and received a copy of this
 page. I certify that the facts contained herein are true and correct to the best of my know-
 ledge.

Signature of person giving voluntary statement

Sworn to before me this 15 day of 7 19 2002

Notary Public of South Carolina
 17 NOV 2010

LCF 604

SEP.03.02 175
 OCT.14.02 175

ENC 4 1B

Pg 3 of 5 pgs

about 11:51 to go see if he was ok. Road past the house About a mile, turned around drove back past house slowly to see if we could see Johnny's car. Went back 2 miles turned around turned in drive way, didn't see Johnny's car, so we headed back to Johnny's. Got at Johnny's about 12:22 Johnny called 911. We left to go back to Corky's. When we got there, Susan stayed in the car, Me & Johnny went to ~~DMH~~ front porch, I saw Corky laying on his side on floor. The dog was beside him. I touched Corky's arm, yelling at him to wake up. But he wouldn't. I saw blood all over, his arm openend up. Johnny pulled me away from Corky, I got (Bubba) to come get in the car and we went down the road. Johnny seen a Cop car go by told me to bright light him. We turned around & headed back to Corky's with Cop. We stay in the yard and waited for Police & Ambulance. Was later GSRed and interviewed by Det Fryer.

~~DMH DMH~~

~~DMH DMH~~

~~DMH~~

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Dorina Marie Shultz
Signature of person giving voluntary statement

Sworn to before me this 15 day of 07 192002.

Notary Public # 309 17 NOV 2010
Notary Public of South Carolina

OCT. 14.02 176

SEP. 03.02 176

Chell # 1c

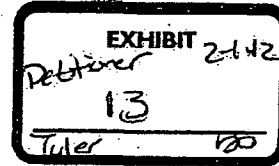
April 15, 2003

759

TO: S.C. BAR
Box 608
Columbia, SC 29202

From: Randy TYLER
LEXINGTON COUNTY JAIL
521 GIBSON ROAD
LEXINGTON, SC 29072

RE: ATTORNEY



DEAR Sir or Ms.

I Am having Problems With my
ATTORNEY AND WANT TO FIRE
him. I RETAINED him AT A
COST OF \$17,000.00. HE REFUSES
TO ACCEPT my CALLS AND HAS A
BLOCK on his Phone. HE REFUSES
TO ANSWER my CERTIFIED letters.
HE REFUSES to come visit with
me. Please send me the
NECESSARY PAPERWORK I MAY
need to file so I can get
some of my money BACK. I
LOOK FORWARD to hearing from
you.

BEST REGARDS

Randy Tyler
RANDY TYLER



950 Taylor Street
PO Box 608
Columbia, SC 29202-0608
803-799-6653 Phone
803-799-4118 Fax
www.schar.org

ADVANCING JUSTICE,
PROFESSIONALISM
AND UNDERSTANDING
OF THE LAW,

April 25, 2003

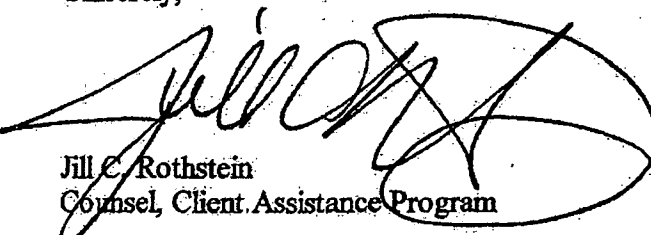
Randall S. Tyler
Lexington County Jail
521 Gibson Road
Lexington, SC 29072

Dear Mr. Tyler:

The Client Assistance Program of the South Carolina Bar is in receipt of your request for assistance dated April 15, 2003 regarding your concerns about the fees paid in connection with your initial consultation with your Attorney.

While the purpose of the Client Assistance Program is limited to trying to resolve minor complaints between clients and their attorneys, I have taken the liberty of enclosing a Fee Dispute Application for you to fill out and mail back to the Fee Dispute Resolution Committee here at the Bar. They help resolve the monetary conflicts between clients and their attorneys, which is applicable to your situation.

Sincerely,



Jill C. Rothstein
Counsel, Client Assistance Program

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dennis J. Bolt Law Firm
914 Richland St
Columbia SC
29201

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) *Karen Lucas Pohl* B. Date of Delivery *8-8-03*
- C. Signature *x Karen Lucas Pohl* ☐ Agent ☐ Addressee
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below

3. Service Type:

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number:

(Transfer from service label)

70099 3400 0015-7807 1206

PS Form 3811, March 2001

Domestic Return Receipt

102595-01-M-1424

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dennis J. Bolt Law Firm
914 Richland St.
Columbia SC
29201

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) *Karen Pohl* B. Date of Delivery *3-28-03*
- C. Signature *x Karen Pohl* ☐ Agent ☐ Addressee
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type:

- ☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number:

(Transfer from service label)

PS Form 3811, March 2001

Domestic Return Receipt

102595-01-M-1424

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bolt LAW Firm
914 Richland St. Suite 100
Columbia, S.C.
29201

COMPLETE THIS SECTION ON DELIVERY

- A. Signature *x Karen Pohl* ☐ Agent ☐ Addressee
- B. Received by (Printed Name) *Karen Pohl* C. Date of Delivery *8-4-03*
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type:

- ☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2.

7002 0510 0001 9609 9825

10/2
Dennis J Bolt
Law Firm
914 Richland st

RANDALLS. Tyle
PO Box 2019
Lex SC
29071

DEAR Mr Bolt. Please Sir I AM INNOCENT!

I AM writing in regards to my case, I AM requesting that you come AND see me. I don't mean to Bother you. But I have been incarcerated almost 9 months AND I've had NO preliminary hearing Sir you stated you were gonna ARANGE this poly-graph AND A Bond hearing AND we were gonna go over my motion of discovery. And it's been a couple of months Mr. Bolt. I AM NOT Guilty Sir. I AM also requesting a copy of my first Bond hearing transcript. Please try to understand Sir (please It is my Right MR. Bolt & under)

1) The Supreme Court has not Specifically Applied The 8th Amendment Prohibition Against excessive bail to the States. It has noted that The 8th Amendment's Proscriptions of excessive bail has been Assumed to have Application to the States Through The 14th Amendment

2) The 8th Amendment to the United States Constitution contains a provision Against excessive Bail —

(STATE vs. Taylor) 178 SE 2d 244

3) Article I section 15 of the S.C. Constitution All persons are guaranteed The Right to Bail before Conviction (except in Capital Cases when proof is evident or the presumption is Great)

4) Excessive bail is Also prohibited by Article I section

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⑤ The bail must not be greater OR than the accused is expected to pay. At this time I AM requesting A BOND hearing AND I would like to point out A BOND I CAN Afford. It's my constitutional Right. I would Also like for A fast AND Speedy trial.

The Reason I Am Also writting is you Stated you were GONNA come AND visit me to go over my Motion of discovery; WHEN? I would Also like to Address that my Father has died since I've been here, my Aunt has died. AND Now my GRAND mother is in the hospital with heart Problems. MR Bolt I'm not guilty AND I'm NOT CONVICTED SO I would Appreciate your Attention "Please AS I Also Have A wife & child who Need me At Home. I'm ONLY Accused SIR, I'm NOT Guilty!! Please? Thank you Sincerely

RANDALL S. Tyler

Dated 3-26-03

x *Randall S. Tyler*SWORN TO AND BEFORE ME THIS 26th DAY OF MARCH, 2003

Dated

NOTARY x

[Signature]
NOTARY FOR DEEDS & CAPS

RANDALL S. Tyler
521 Gibson Rd
Box SC 29072

Dear Mr. Balt.

I am once again writing you in concern to my case. You do not correspond with me or my family at all. Letters or phone calls (none) Why is this neglect in my case happening?? You told me 8 months ago when we retained you that you'd get me a bond hearing. Since then you have told me on several occasions you'd arrange a bond hearing, and you said you come and we'd go over my motion of discovery. And to no avail it's been another 2 months. At this time I am requesting that you provide me with A Schedule to show me exactly just how many hours you have spent on my case. I would also like the name of any investigator or private detective that you may have hired. I would also like A list of Any witnesses & Addressees that you may have interviewed. I would like an itemized statement. (please) I feel that due to the neglect of your returning any of my families home calls or responding to any of my letters that Our Attorney Client relationship has been irrevocably damaged beyond repair. Like I told you, I am innocent and you don't seem to be representing me to the best of your ability.

for me, Then you against me. And you're done absolutely nothing for me. So far you have obtained \$17000⁶⁰⁰ and all of that was before the scheduled dates of our contract. I can't see just throwing my families hard earned money away or my life due to your neglect. I am asking that you send me a list of all the things I've asked you for And to contact my mother Linda Hughes At 517-589-0343 to make arrangements to return my money. Anything short of this we will contact the South Carolina Bar Ass. I don't deserve the way you are treating me nor the way you have diligently neglected me without remorse. You haven't even given me a preliminary hearing. I have also asked you repeatedly to put in for my "FAST AND SPEEDY" TRIAL which is my constitutional right. If I don't see you in person within 15 days of receipt of this letter, Consider Yourself relieved as my attorney of record. As you are aware my calls are deliberately blocked from the jail so I can't call your office. And should you be relieved, as my attorney,

to me As you have done nothing. It is not fair to me or my family!

Mr. Bot I am innocent And personally I can not believe you are treating me and my family with such neglect.

I look forward to seeing you with in 15 days.

Thank You,

Respectfully,

RANDALL S. TYLER

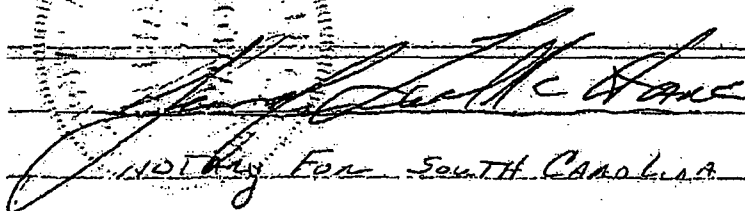
Dated 4-29-03

X

~~RANDALL S. TYLER~~

SWORN TO AND BEFORE ME THIS 29th DAY

OF APRIL, 2003.


NOTARY FOR SOUTH CAROLINA

my Commission Expires July 13, 2004

BULLET/PROJECTILE WORKSHEET

SLED LAB NO: 0208714

AGENCY: Lexington CSO

DATE COMPLETED: 6-5-03

EXAMINER: WHITLER

ITEM NO: 36, 37 — 2 fired Bullets

SOURCE: —

HOW PACKAGED: Sealed Cardboard Box E196498

DATE OPENED: 6-3-03 BY: LW

CALIBER: 40 - approx dia of I36+37 ~~38~~ .398"-.401" same distortion/Range

LANDS & GROOVES: 6 (Both)

DIRECTION OF TWIST: R (Both)

LAND IMPRESSION WIDTH: poly (Both)

GROOVE IMPRESSION WIDTH: poly (Both)

MAKE: —

TYPE: Copper-alloy Jacket HP (Both)

WEIGHT: I 36: 120.8 gr

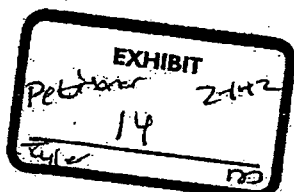
I 37: 135.6 gr

EXAMINER'S MARKINGS/LOCATION: I #HW 0208714 Base of Bullets

DAMAGE/TRACE: I36 nose expanded jacket folded over part of base. Jacket unpeeled for exam. I37 has wood-like material in HP cavity - not removed.

SKETCH:

RESULTS: I 36 & 37 inconclusive with I 38, 39, 40, 41, and 42 Bullet Jacket due to lack sufficient W.N. with echoes and



"MICRO" VERIFIED: YES NO BY: HW 6-5-03

PHOTO: YES NO

GRC: YES NO SEE PAGE

DATE SEALED: 6-5-03

BULLET/PROJECTILE WORKSHEET

SLED LAB NO: 0208714

AGENCY: Lexington CSD

DATE COMPLETED: 6-5-03

EXAMINER: Whittier

ITEM NO: 38, 39, 40 - 2 Bullet Jackets, 2 Bullet Cores, and

SOURCE: - 1 fired Bullet (40)

HOW PACKAGED: sealed Card Board Box E196498
Note: I40 Core + Jacket Separated during Exam.

DATE OPENED: 6-3-03

BY: JHW

CALIBER: 40 (all)

LANDS & GROOVES: 6 (all)

DIRECTION OF TWIST: R (all)

LAND IMPRESSION WIDTH: poly (all)

GROOVE IMPRESSION WIDTH: poly (all)

MAKE: -

TYPE: Copper alloy Jackets - closed bases Core/ HP. in Nose area of jackets.

WEIGHT: I38 JACKET 26.5 gr I38 Core 77.2 gr I39 JACKET 27.4 gr

I39 Core 59.3 gr I40 Jacket: 30.7 gr I40 Core 79.1 gr

EXAMINER'S MARKINGS/LOCATION: I # Rev 0208714 on Bases of jackets + where space available on cores.

DAMAGE/TRACE: All very damaged, expanded, with jacket petals folded over base. I40 Core + jacket separated while unfolding; petals for exam.

SKETCH:

Not. all jackets/cores sanitized and jacket petals peeled from base areas for exam purposes.

RESULTS: I 38, 39, + 40 ^{bullet} jackets in core with each other and with I38 + 37 bullets and I 41 and 42 Bullet jackets.

I 38, 39, + 40 cores have WMR and are unsuitable for latent purposes.

"MICRO" VERIFIED: YES NO BY: JH 6-5-03

PHOTO: YES NO

GRC: YES NO SEE PAGE

DATE SEALED: 6-5-03

BULLET/PROJECTILE WORKSHEET

SLED LAB NO:

0208714

AGENCY:

Lexington CSO

DATE COMPLETED:

6-5-03

EXAMINER:

Whitten

ITEM NO:

41 —

1 fired Bullet Jacket, 1 lead Bullet core frag

SOURCE:

— and 1 lead fragment

HOW PACKAGED:

Sealed Card Board Box E196448

DATE OPENED:

6-3-03

BY:

LW

CALIBER:

40

LANDS & GROOVES:

6

DIRECTION OF TWIST:

R

LAND IMPRESSION WIDTH:

poly

GROOVE IMPRESSION WIDTH:

poly

MAKE:

—

TYPE: copper alloy JACKET CW/HP at nose area - petals
CW/HP.

WEIGHT: jacket 30.8 gr core 52.0 gr lead frag 12.7 gr

EXAMINER'S MARKINGS/LOCATION:

I4/LW 0208714 Base of jacket, I4/LW
0208714 on core frag + I4/LW on lead frag.

DAMAGE/TRACE:

all very damaged - jacket petals peeled back
to expose Base area for exam purpose. all
sanitized.

SKETCH:

RESULTS:

I4/1 bullet jacket
in enclosure with I 36 & 37
bullets and I 38, 39, 40,
& 42 bullet jackets.I4/1 core and lead frag
Base area and are suitable
for exam purpose.

"MICRO" VERIFIED:

YES

NO

BY:

LW 6-5-03

PHOTO:

YES

NO

GRC:

YES

NO

SEE PAGE

DATE SEALED:

6-5-03

BULLET/PROJECTILE WORKSHEET

SLED LAB NO: 0208714

AGENCY: Lexington CSO

DATE COMPLETED: 6-5-03

EXAMINER: Whittier

ITEM NO: 42 — 1 fired Bullet Jacket, 2 fired Bullet Jacket
SOURCE: — / fragments, 1 lead bullet core fragment, 2 lead frags,
1 damaged penny and 2 damaged Nickels

HOW PACKAGED: sealed Cardboard Box E196498

DATE OPENED: 6-3-03 BY: JW

CALIBER: 40 Jacket frag (case) + Bullet Jacket

LANDS & GROOVES: 6 Bullet Jacket

DIRECTION OF TWIST: R Bullet Jacket

LAND IMPRESSION WIDTH: poly on Bullet Jacket (IATD on Jacket frag + Base Jacket fr)

GROOVE IMPRESSION WIDTH: poly on Bullet Jacket " " " " " "

MAKE: —

TYPE: copper alloy jacket, closed Base on Jacket and on Base Jacket fragment.

WEIGHT: Bullet Jacket 30.8 gr Jacket frag 11.6 gr Base Jacket Frag 8.7 gr
Core frag 75.4 gr lead frag 12.8 gr lead frag 7.7 gr

EXAMINER'S MARKINGS/LOCATION: Jacket marked on Bases where available, lead frags + cores where space permitted.

DAMAGE/TRACE: all frags damaged. Jacket folded over, petals peeled back to expose Base area for exam. all frags damaged

SKETCH:

NO exam to coins.
Damage to them (one)
What Bullet might
do. NMOV on Coins.

RESULTS: I 42 Bullet Jacket and 2
Bullet Jacket fragments in condition
with each other and with
I 36 + 37 Bullets and I 38, 39,
40, + 41 Bullet Jackets.

I 42 Core and lead frags
have NMOV and are unsuitable
for latent purposes.

"MICRO" VERIFIED: YES NO BY: JW 6-5-03

PHOTO: YES NO

GRC: YES NO SEE PAGE

DATE SEALED: 6-5-03

SLED LABORATORY

Case Note Cover Sheet

(Entry not always required in shaded areas)

Lab Number: <u>L 0208714</u>		Examiner <u>WHITLER</u>	
Original Submission <u>Photo P22-26</u> Page 1 of <u>26</u> Total Pages of Notes Satisfactory Peer/Technical Review Completed On: <u>6/5/03</u> By <u>DT</u> Date Initials		Analysis Started On: <u>6-3-03</u> Analysis Completed On: <u>6-5-03</u> Satisfactory Administrative Review Completed On: <u>6/5/03</u> By <u>DT</u> Date Initials	
Additional Submission Page 1 of _____ Total Pages of Notes Satisfactory Peer/Technical Review Completed On: _____ By _____ Date Initials		Analysis Started On: _____ Analysis Completed On: _____ Satisfactory Administrative Review Completed On: _____ By _____ Date Initials	
Additional Submission Page 1 of _____ Total Pages of Notes Satisfactory Peer/Technical Review Completed On: _____ By _____ Date Initials		Analysis Started On: _____ Analysis Completed On: _____ Satisfactory Administrative Review Completed On: _____ By _____ Date Initials	

USE ADDITIONAL COVER SHEET(S) IF MORE SUBMISSIONS ARE RECEIVED

DOCUMENTATION OF CONVERSATIONS RELATED TO THIS CASE

Date/Time	Person's Name Agency, Call Back No.	Summation of Conversation	Initials
6-2-03 2PM	Telcall to Vicki Hallman LEO. Not on, left message on VMail		
2:15PM	Telcall to TAY SWART - LEO SOL OFF. Not on, left Vmail re subpoena.		
3:50PM	telcall from Hallman. she advised case was going to trial next week and case was push. I told her file was not marked push + I had trial Tues in Lancaster. She said she would contact Swart.		
4:05PM	telcall from Swart. He adv he was attempting to show all items filed by 1 guy. I told him 7 problems w/ blocks. He said no need to explain may. pgs# 733-0433/4		

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

FIREARMS DEPARTMENT

Vicki Hallman
Lexington County Sheriff's Office
521 Gibson Road
Lexington, SC 29072

June 5, 2003
SLED Lab No: L02-08714
Your Case No: 02-52729
Incident Date: 7/14/02
(V) Lewis, Robert
(S) Tyler, Randall

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Robert M. Stewart, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Items 12 - 14: Three fired Triton brand 40 S&W caliber cartridge cases.

Items 36 - 37: Two fired bullets.

Item 35: One metal can containing one pistol magazine. No Exam conducted.

Item 38: One fired bullet jacket and one bullet core.

Item 39: One fired bullet jacket and one bullet core.

Item 40: One fired bullet.

Item 41: One fired bullet jacket, one bullet core, one lead fragment.

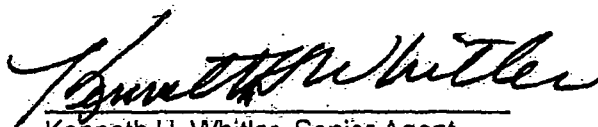
Item 42: One fired bullet jacket, two fired bullet jacket fragments, one bullet core, two lead fragments, and three damaged coins. No exams conducted on the three damaged coins.

RESULTS:

The Item 12, 13, and 14 cartridge cases were microscopically compared to each other and it was concluded that all three cartridge cases were fired by the same firearm.



The Item 36 and 37 bullets, the Item 38, 39, 40, 41, and 42 bullet jackets, and the Item 42 bullet jacket fragment (base area), were fired from a 40 caliber polygonally rifled firearm barrel(s). All of these items and the remaining Item 42 bullet jacket fragment were microscopically compared to each other, however, due to a lack of sufficient microscopic marks of value, they could not be identified as having been fired by the same barrel. The Item 38, 39, 40, 41, and 42 bullet cores and/or lead fragments bore no marks of value and were unsuitable for identification purposes.



Kenneth H. Whitler, Senior Agent

KHW



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

JIM HODGES
GOVERNOR



ROBERT M. STEWART
CHIEF

TRACE EVIDENCE DEPARTMENT

Det. Scottie Frier
Lexington County Sheriff's Department
521 Gibson Road
Lexington, SC 29072

September 30, 2002
SLED Lab No: L02-08714
Your Case No: 02-52729
Incident Date: 07/14/02
(V) Lewis, Robert C.
(S) Tyler, Randall

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Robert M. Stewart, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Item 9: One GSR kit from Donna Hutto

RESULTS:

In the samples submitted in the kit labeled "Donna Marie Hutto", the quantities of metals detected did not indicate the presence of gunshot residue.

Item 10: One GSR kit from John Hutto

RESULTS:

In the samples submitted in the kit labeled "John Marshall Hutto", no analysis performed. The samples were collected beyond the six hour time frame in which probative evidence would be found.

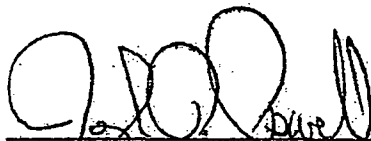


Item 11: One GSR kit from Robert Lewis

RESULTS:

In the samples submitted in the kit labeled "Robert C. Lewis," metals consistent with gunshot residue were found on both palms and on the back of the right hand. The quantities of metals detected on the back of the left hand may be associated with gunshot residue.

These examinations were conducted by Lieutenant Joseph D. Powell, Forensic Trace Evidence examiner with this Division.



Joseph D. Powell
Lieutenant

10-2-02
Date

JDP/cem



Department Evidence Listing

AB NUMBER	DESCRIPTION
0208714.12 2)	One fired Triton brand 40 S&W caliber cartridge case.
0208714.13 2)	One fired Triton brand 40 S&W caliber cartridge case.
0208714.14 2)	One fired Triton brand 40 S&W caliber cartridge case.
0208714.36	One fired bullet fragment.
0208714.37	One fired bullet.
0208714.38	One fired bullet jacket and one lead bullet core.
0208714.39	One fired bullet jacket and one lead bullet core.
0208714.40	One fired bullet.
0208714.41	One fired bullet jacket, one lead bullet core fragment, and one lead fragment.
0208714.42	One fired bullet jacket, two fired bullet jacket fragments, one lead bullet core fragment, two lead fragments, one damaged penny, and two damaged nickles.

Setup

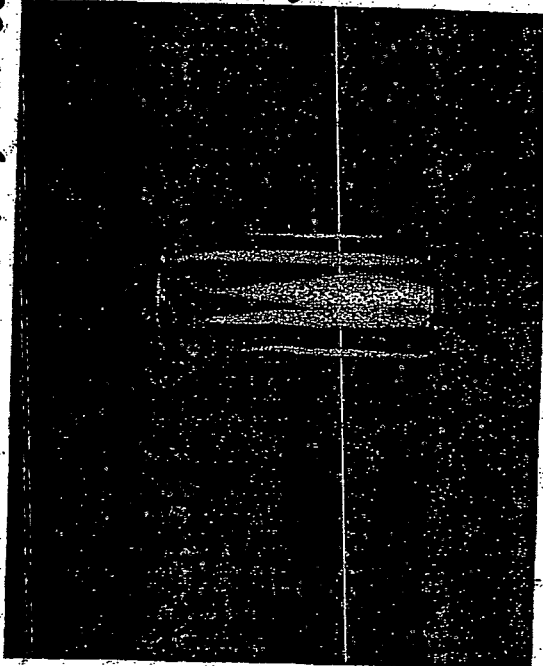
Script: /lms/content/Reports/Management/omGenerate.asp Last Modified: 2/24/03 5/13/00 1

LCN 10208714 User Whittier, Kenneth Browse all Profile /R-A Dept FIRE Web dataroom2 DB dataroom_sql Cfg dataroom2

Copyright© 1999,2000,2001 William A. Deaton. All rights reserved. NonDisclosure Agreement.

*as revised**Note. No exam conducted on I35 mag per
conversation w/ Solicitor.*

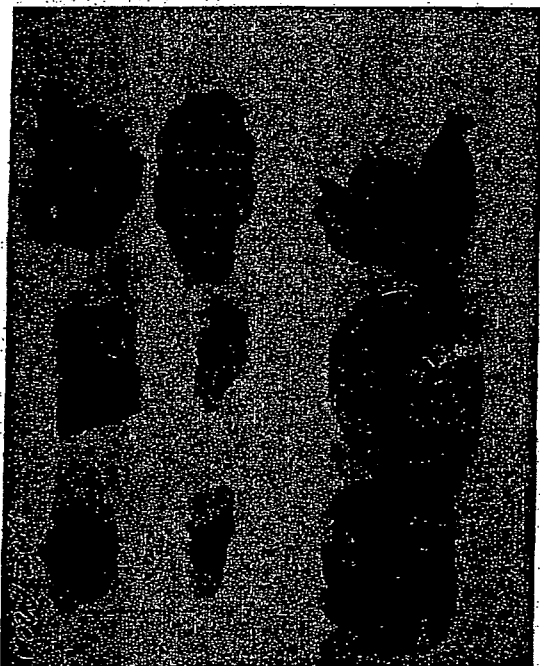
16W E196498



AS recd. Not opened
or examined. Inspected
0208714 - Item 35

(23)

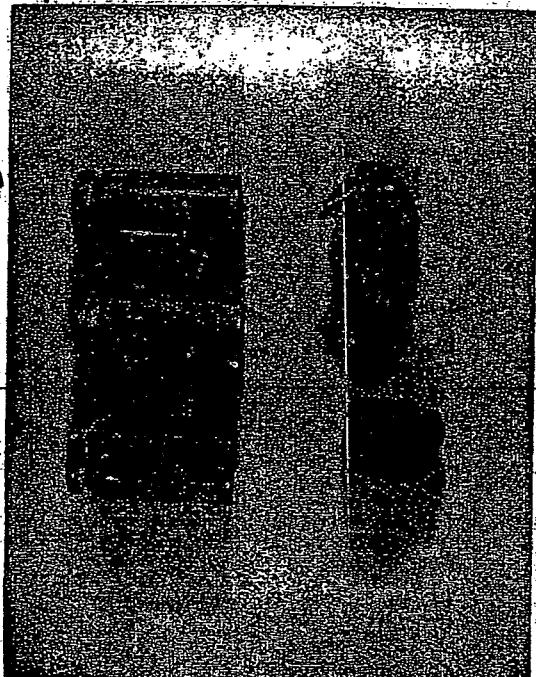
16W E196498



AS recd.

(25)

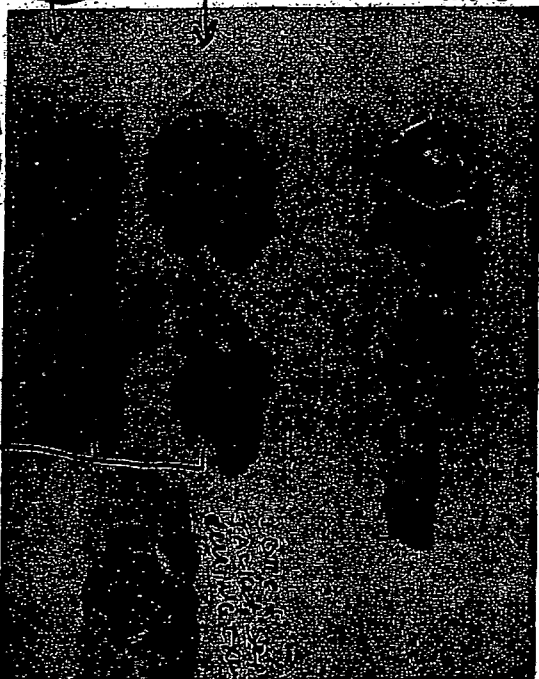
16W E196498



AS recd. -
I12 I13 I14
0208714 - Items 12, 14, 36, 37

(22)

16W E196498



AS recd.
0208714 - Items 20, 41

(24)

778 K-13

VOLUNTARY STATEMENT
(Not Under Arrest)

I, DONNA M. HUTTO, am not under arrest, nor am I being detained for
criminal offenses concerning the events I am about to make known to DETECTIVE

S. R. FRIER.

SEP 03 02 168

Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 41 years of age, and I live at SAVANNAH Hwy. North SC.

I HAVE BEEN LIVING WITH ROBERT "CORKY" LEWIS FOR ABOUT 10 YEARS. TONIGHT, WE WERE AT HOME ALONE. CORKY WAS WORKING IN THE GARAGE. I FELL ASLEEP ON THE COUCH AROUND 10:00 PM. I WAS WOKEN UP BY RANDY TYLER YELLING WITH CORKY AND THE DOG BARKING. RANDY SEEMED TO BE ANGRY AT CORKY, BUT I COULDN'T MAKE OUT WHAT RANDY WAS SAYING. I KEPT HEARING CORKY SAY, "RANDY, I AINT DID NO KINDA SHIT LIKE THAT." RANDY SAID, "COME ON, LETS GO IN THE HOUSE." CORKY SAID, "NO THERE AINT NO NEED TO GO INSIDE." I WAS SO AFRAID OF WHAT I WAS HEARING, I THOUGHT TO GO HIDE IN THE BATHTUB. I WENT TOWARDS THE POOL ROOM IN THE KITCHEN WHERE I COULD SEE INTO THE GARAGE. I SAW RANDY TYLER WALKING INTO THE GARAGE. I COULD NOT SEE HIS FACE, BUT I COULD TELL BY HIS BUILD, HIS MOVEMENT AND HIS VOICE THAT IT WAS RANDY TYLER. I AM POSITIVE OF THAT. CORKY SOUNDED LIKE SOMETHING

I have read each page of this statement consisting of 3 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

OCT 14 02 168

Signed at SAVANNAH Hwy., this 14 day of JULY 2002

WITNESS:

WITNESS:

Donna M. Hutto
Signature of person giving voluntary statement.

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 2 of 3 pgs

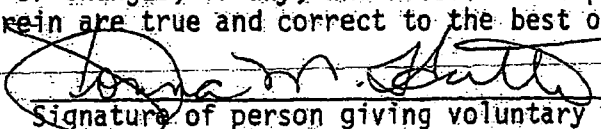
DONNA M. HUTTO

WAS WRONG, AND CORKY KEPT TELLING HIM THEY DIDN'T NEED TO GO IN THE HOUSE. RANDY SOUNDED LIKE HE WAS MAD. I BECAME AFRAID, RAN OUT OF THE FRONT DOOR, GOT INTO MY CAR, AND THEN DROVE TO MY BROTHERS HOUSE. HE LIVES ON LUCAS RD. HIS NAME IS JOHNNY. I ASKED JOHNNY TO CALL THE POLICE. I TOLD JOHNNY THAT RANDY AND CORKY WERE HARASSING AND I THOUGHT THAT RANDY WAS GOING TO HURT CORKY. JOHNNY CALLED THE POLICE. JOHNNY AND SUSAN AND I THEN DROVE BACK TO MY HOUSE. I SAW CORKY IN THE DOORWAY. I SEEN BLOOD.

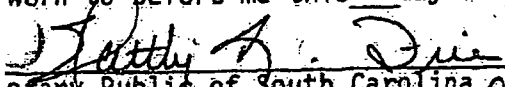
SEP.03.02 169

I HAVE KNOWN RANDY TYLER FOR 1 OR 2 yrs. CORKY AND I HAVE BOTH KNOWN HIM, BUT CORKY KNOWS HIM BETTER THAN I DO. RANDY IS MARRIED TO GINA. THEY USED TO LIVE ON PLEASANT VALLEY RD. I BELIEVE HE USED TO LIVE IN PINE TREE M.H.P. HE LIVES SOMEWHERE NEAR FORT JACKSON. I HAVE NEVER BEEN THERE. RANDY HAS BEEN TO OUR HOUSE 5 OR 6 TIMES BEFORE. HE IS APP. 30-40 yrs Old. HE HAS SILVER/WHITE HAIR. I AM POSITIVE BEYOND ANY

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.


Signature of person giving voluntary statement

worn to before me this 14 day of July 2002


Notary Public of South Carolina 06/25/2007

OCT.14.02

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VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 3 of 3 pgs

I DOUBT THAT RANDY TYLER IS THE MAN I
SAW AT OUR GARAGE TONIGHT THAT WAS ANGRY
AND YELLING AT CORY.

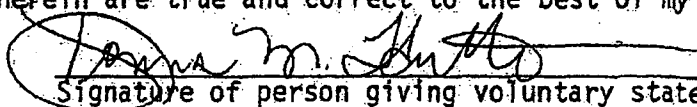
END OF STATEMENT

~~DMH~~

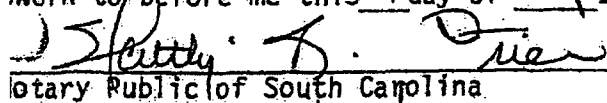
SEP 03 02

170

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.



Signature of person giving voluntary statement

Sworn to before me this 14 day of July @ 2002
Notary Public of South Carolina

OCT. 14. 02

170

FOSSUM

OCT 14 02

172

SEP 03 02

172

14

DMH

Witness my hand and seal of office at 1839 Savannah Hwy, this 14 day of July, 182022.

WITNESS: _____

Lorna Marie Gittle
Signature of person giving voluntary statement.

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 2 of 2 pgs

COMING TOWARD US IN THE OTHER LANE. WE
 TURNED AROUND AND FOLLOWED THE DEPUTY BACK
 TO MY HOUSE. THEN ALL THE COPS STARTED SHOWING
 UP. I REMEMBERED "CORY" SAYING, "RANDY, I
 AIN'T DONE NOTHING LIKE THAT." HE [CORY] CALLED
 HIM "RANDY." I HEARD THIS EARLIER WHEN THEY
 WERE ARGUING - RIGHT BEFORE I LEFT TO GO
 TO JOHNNY'S HOUSE FOR HELP. DMH

OCT. 14.02 173

SEP. 03.02 173

End of Statement

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Signature of person giving voluntary statement

SWORN TO BEFORE me this the
 ____ day of ____ 20____.

NOTARY PUBLIC SOUTH CAROLINA

VOLUNTARY STATEMENT
(Not Under Arrest)

I, Donna Marie Lutto, am not under arrest, nor am I being detained for
any criminal offenses concerning the events I am about to make known to Det. J. B. Quig
C.C.S.D. SEP 03 02 174

Without being accused of or questioned about any criminal offenses regarding the facts I am
about to state, I volunteer the following information of my own free will, for whatever pur-
poses it may serve.

I am 41 years of age, and I live at 1 Savannah Hwy. North
On Sat June 13, ^{DMH At about 9:30} I went to Piggie Park to
get me & Corky something to eat. After we ate
Corky asked if I wanted to help him on the trailer,
I told him no. So he went back in the shop to work
on the trailer. At about 10:15 I ^{DMH} ~~laid~~ laid down on
the couch and fell asleep, because we had been
fishing all night the night before and I was tired.
At about 11:00 or 11:15 our dog was barking & coming
inside the house, he jumped on me, ~~we~~ I also heard
someone arguing outside in the shop. I went to
my bedroom to get a cigarette and when I went
to kitchen window, I saw Randy walk into the shop
from the right. ^{DMH} ~~When~~ I heard Corky say I aint
done nothing like that Randy, I aint ^{DMH} ~~done~~ no kinda
shit like that. That's when I started ^{DMH} ~~getting~~ getting scared
I went to Corky's bedroom & peed & looked out
the blinds to see if Randy's car was outside. I
was very scared because I've heard Randy say

I have read each page of this statement consisting of 1 page(s), each page of which bears
my signature, and corrections, if any, bear my initials, and I certify that the facts con-
tained herein are true and correct.

Signed at C.C.S.D., this 15 day of 7 ²⁰⁰² 19.

WITNESS:

WITNESS:

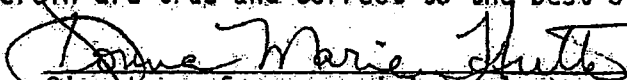
Donna Marie Lutto
Signature of person giving voluntary statement.

Page 1 of 1

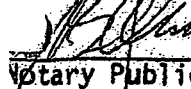
Pg 2 of 5 pgs.

somethings that he would do to people and not think
 nothing about it. I didn't know what to do. Then
 I heard Randy tell Corky to go in the house.
 Corky told Randy we don't need to go in the house.
 The way Corky said that made me feel like I
 needed to get the hell out of the house, like he
 was warning me to get out. I unlocked the door
 and ran to my car, thinking Randy would be behind
 me. ^{DN} I got in my car and I guess it was
 about 11:25 when I got in my car & went to my
 brothers house (Johnny) probably took me 10-12 min.
 I went in Johnny's crying & screaming & told him
 Randy & Corky was arguing and I thought Randy
 was gonna kill Corky to please go help Corky.
~~Johnny told me to call police, but~~
 I said no ^{DN} because the police would be too
 late to help Corky. About ^{DN} 11:42 Johnny got a gun
 and left the house to go help Corky. He told me
 & Susan to stay there. Me and Susan sat in my car
 that was facing the road in case Randy showed up
 I would have a chance of running over him. We
 got worried about Johnny so we left there house

I have read this page, initialed corrections or changes, if any, and received a copy of this
 page. I certify that the facts contained herein are true and correct to the best of my know-
 ledge.


 Signature of person giving voluntary statement

Sworn to before me this 7 day of 7 19 2002


 17 Nov 2010
 Notary Public of South Carolina

CF 604

SEP. 03. 02 175
 OCT. 14. 02 175

175 175

VOLUNTARY STATEMENT OF VICTIM WITNESS

Pg 3 of 5 pgs

about 11:51 to go see if he was ok. Road past the house about a mile, turned around drove back past house slowly to see if we could see Johnny's car. Went back 2 miles turned around turned in drive way, didn't see Johnny's car so we headed back to Johnny's. Got at Johnny's about 12:22 Johnny called 911. We left to go back to Corky's. When we got there, Susan stayed in the car, Me & Johnny went to ~~front~~ front porch, I saw Corky laying on his side on floor. The dog was beside him. I touched Corky's arm, yelling at him to wake up. But he wouldn't. I saw blood all over, his arm opened up. Johnny pulled me away from Corky, I got (Bubba) to come get in the car and we went down the road. Johnny seen a Cop car go by told me to bright light him. We turned around & headed back to Corky's with Cop. We stay in the yard and waited for Police & Ambulance. Was later GSR'd and interviewed by Det Fryer.

DMH

DMH

DMH

DMH

DMH

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Dona Marie Shultz
Signature of person giving voluntary statement

Sworn to before me this 15 day of 07 192002.

OCT. 14.02

176

Notary Public of South Carolina
17 NOV 2010

SEP. 03.02

176

Ink # 1

Pg 1 of 2 pgs

DATE JULY 17, 2002 HATCHERY TIME STARTED 0020 M.I, the undersigned, SAMUEL TULLMAN HANSEN am _____ years of age, my date of birth being the _____ of 7, 1982, at TEXASMy present address is 4 AD, W. COLA, S.C. 29172Before answering any questions or making any statements, P.C. FAGLERa person who identified himself as a DETECTIVE, L.C.S.D.

DULY WARNED AND ADVISED ME:

- SH 1. That I have the right to remain silent and not make any statement at all.
- SH 2. That any statement I do make can be used against me in court.
- SH 3. That I have the right to have an attorney present at any time during questioning.
- SH 4. That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
- SH 5. That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

I drove to Charleston Sunday afternoon. I wrap it up in napkins and throw the gun off the bridge like it was trash. I drove back home about 8:00.

Q WHAT DID YOU THROW OFF THE BRIDGE?

A. A Gun that I wrap up napkins.

Q WHO DID YOU GET THE GUN FROM AND DESCRIBE THE GUN?

A. From my brother Travis Glock 40 Cal

Q. WHO WENT WITH YOU TO CHARLESTON AND WHO'S CAR DID YOU RU IN?

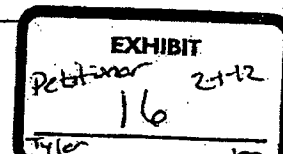
A. I went to Charleston by my self and I hired a Lincoln town car that is sam Austin. SEP 03.02 064

Q WHERE DOES SAM AUSTIN LIVE, WHAT IS HIS PHONE NUMBER AND DESCRIBE HIM?

A. 228 New Cassel no phone white male. OCT. 14.02 064

Witness P.C. FaglerNotary Public WITNESS / 7/17/02

My Commission expires _____

X Sammy Hansen
Person giving StatementDate 7/17/02

SUSPECT RCT.
VOLUNTARY STATEMENT OF ~~VICTIM / WITNESS~~

Pg 2 of 2 pgs

Q. DID YOUR BROTHER TAVIS TELL YOU ANYTHING ABOUT WHY HE HAD THE PISTOL AND WHY HE WANTED YOU TO DISPOSE OF IT?

A. He told me Randy shoot some one & that he ^{SA} need me to do something with the gun. Because I am his brother I wish that was not so.

065 14 12

065

SEP0302

065

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Signature of person giving voluntary statement

worn to before me this 17 day of JULY 2007

[Signature]
Notary Public of South Carolina

..... 11/17/2007

ARREST WARRANT

H-128830 H-128830

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Lexington
THE STATE
against

DEBORAH L. HARSEY

Address: WEST COLA., SC 29071 RD.

Phone: SSN: 140

Sex: F Race: W Height: 5-7 Weight: 140

DL State: DL#: Agency ORI#: 3200

DOB: Prosecuting Agency: L. C. S. D.

Prosecuting Officer: DETECTIVE FRIER

Offense: COMMON LAW OBSTRUCTION

Offense Code: Code/Ordinance Sec: COMMON LAW

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to law.

 Signature of Judge (L.S.)
Date: RETURN
A copy of this arrest warrant was delivered to
defendant DEBORAH L. HARSEY
on 17-July-2002
Signature of Constable/Law Enforcement Officer
Signature of Constable/Law Enforcement Officer

 RETURN WARRANT TO:
BRUCE RUTLAND
650 KNOX ABBOTT DR.
CAYCE, SC 29033
803-796-1100

88

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Lexington

AFFIDAVIT

073

 Personally appeared before me the affiant DETECTIVE SCOTTIE R. FRIER wife
being duly sworn deposes and says that defendant DEBORAH L. HARSEY
did within this county and state on 07/17/2002 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of)

 in the following particulars:
DESCRIPTION OF OFFENSE: COMMON LAW
OBSTRUCTION OF JUSTICE

 I further state that there is probable cause to believe that the defendant named above did commit
the offense set forth and that probable cause is based on the following facts:

 THAT ON OR ABOUT JULY 17, 2002 DEBORAH HARSEY DID WITH MALICIOUS
INTENT PROVIDE A KNOWN FALSE STATEMENT TO LAW ENFORCEMENT IN AN
ATTEMPT TO HINDER LAW ENFORCEMENT FROM LINKING HER SON TO A
HOMICIDE WHICH HAD TAKEN PLACE WITHIN LEXINGTON COUNTY, SOUTH
CAROLINA. THAT HARSEY KNEW HER SON TO HAVE BEEN INVOLVED BASED
ON HIS ADMISSION TO HER. HARSEY ADMITTED TO LAW ENFORCEMENT
AGENTS THAT SHE HAD IN FACT LIED ON BEHALF OF HER SON. THIS
INCIDENT TOOK PLACE WITHIN LEXINGTON COUNTY, SOUTH CAROLINA.

 Sworn to and subscribed before me
on 07/17/2002
Signature of Affiant L.C.S.D.
Affiant's Address 521 GIBSON RD.
LEX., SC 29072
Affiant's Telephone 951-2481

 Signature of Issuing Judge (L.S.)
SCOTTIE R. FRIER
STATE OF SOUTH CAROLINA
County/ Municipality of Lexington
ARREST WARRANT

 TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that
on 07/17/2002 defendant DEBORAH L. HARSEY
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☐ Municipality of COMMON LAW
DESCRIPTION OF OFFENSE: COMMON LAW
OBSTRUCTION OF JUSTICE
) as set forth below:

 NOW DEBORAH HARSEY and I am directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.
Judge's Address 521 GIBSON RD.
LEXINGTON, SC 29072
Judge's Telephone 951-2542
Issuing Court ☐ Magistrate ☐ Municipal ☒ Circuit

 Signature of Issuing Judge (L.S.)
Judge Code: 000
ORIGINAL

DATE 07/17/02 PLACE _____ RD TIME STARTED 12:10 AM.I, the undersigned, DEBORAH L. HARSEY, am 49 years of age, my date of birth being the _____ day of _____, 19____ at TOPIKA, KANSAS.My present address is _____ R RD WEST LOA. SCBefore answering any questions or making any statements, DET. FOSSUM,a person who identified himself as a DETECTIVE WITH THE LEXINGTON CO SO.,

DULY WARNED AND ADVISED ME:

12TH GRADE + 1 yr Ccc

- ☒ 1. That I have the right to remain silent and not make any statement at all.
- ☒ 2. That any statement I do make can be used against me in court.
- ☒ 3. That I have the right to have an attorney present at any time during questioning.
- ☒ 4. That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
- ☒ 5. That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

SEP 03 02 C69

☒ MY SON TRAVIS CAME TO MY HOUSE AFTER MIDNIGHT SATURDAY THE 13TH OF JULY 2002 INTO EARLY SUNDAY MORNING THE 14TH OF JULY 2002. I WAS IN BED WATCHING TV. HIS WIFE KEISHA & THEIR 3 CHILDREN WERE WITH THEM. I THOUGHT THIS WAS STRANGE. HE CAME INTO MY BED ROOM AND SAT DOWN IN THE CHAIR. HE SAID RANDY (I KNOW RANDY & I NEVER LIKED HIM) TYLER HAD CALLED HIM & THEY GOT TOGETHER. RANDY TOLD HIM WHAT HIS INTENTIONS FOR THE VICTIM ("CORKEY") WERE - THAT HE WANTED TO GO TO "CORKEY'S" AND WHIP HIS ASS FOR CHEATING WITH HIS WIFE GINA. HE SAID THEY THEN DROVE TO "CORKEY'S" HOUSE IN HIS CAR - A CADILLAC. HE SAID THAT WHEN THEY GOT THERE RANDY & "CORKEY" STARTED ARGUING IN THE GARAGE; "CORKEY" WAS SAYING, "RANDY YOU KNOW I WOULDN'T DO YOU LIKE THAT - YOU'RE MY BROTHER"

Witness _____

Notary Public _____

My Commission expires _____

Deborah L. Harsey
 Person giving Statement
07-17-02
 Date

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 2 of 2 pgs

THEN THEY STARTED SWINGING AT EACH OTHER. HE
 SAID RANDY PISTOL WHIPPED "CORKY" AND PUNCHED HIM.
 AT SOME POINT, TRAVIS SAID RANDY FIRED 8 SHOTS
 AND "CORKY" GOT SHOT. TRAVIS THEN TOLD RANDY, "LETS
 GO" & HE TOLD RANDY TO GIVE HIM THE GUN. HE SAID
 THEY TOOK THE GUN APART AND GOT RID OF IT. HE DID NOT
 TELL ME WHERE. TRAVIS SAID HE WENT BACK TOWARD THE
 HOUSE AFTER THEY HAD LEFT & POLICE CARS WERE ALREADY
 THERE. I GUESS HE WENT HOME THEN AND THEN CAME
 HERE. I ASKED HIM WHY HE WENT OVER W/ RANDY TO
 "CORKY'S" AND WHY HE DROVE BACK TO THE HOUSE AFTER
 THEY LEFT - HE DID NOT ANSWER ME. (DH)

SEP 03 02 070

End of
 Statement

I have read this page, initialed corrections or changes, if any, and received a copy of this
 page. I certify that the facts contained herein are true and correct to the best of my know-
 ledge.

[Signature]

Deborah H. Hines
 Signature of person giving voluntary statement

Sworn to before me this ___ day of ___ 19___.

Notary Public of South Carolina

MINUTES WARRANT

128831

STATE OF SOUTH CAROLINA

County/ Municipality of Lexington

THE STATE
against

K HA SIMPSON

COLA. SC 29210

RD. K-6

Phone: SSN:

Sex: Race: B Height: 5-5 Weight: 000

DL State: DL# Agency OR# 3200

Prosecuting Agency: L. C. S. D.

Prosecuting Officer: DETECTIVE FRIER

Offense: COMMON LAW

Offense Code:

Code/Ordinance Sec. COMMON LAW

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

(L.S.)

RETURN

A copy of this arrest warrant was delivered to defendant KEISHA SIMPSON on 7/17/2002

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

BRUCE RUTLAND
650 KNOX ABBOTT DR.
GAYCE, SC 29033
803-767-7100

STATE OF SOUTH CAROLINA

County/ Municipality of Lexington

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on 07/17/2002

State of South Carolina (or ordinance of County/ Municipality of

in the following, particular:

DESCRIPTION OF OFFENSE:

COMMON LAW

OBSTRUCTION OF JUSTICE

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THAT ON OR ABOUT JULY 17, 2002 KEISHA SIMPSON DID WITH MALICIOUS INTENT PROVIDE A KNOWN FALSE STATEMENT TO LAW ENFORCEMENT IN AN ATTEMPT TO HINDER LAW ENFORCEMENT FROM LINKING HER HUSBAND TO HOMICIDE WHICH HAD TAKEN PLACE WITHIN LEXINGTON COUNTY, SOUTH CAROLINA. THAT SIMPSON KNEW HER HUSBAND TO HAVE BEEN INVOLVED IN THIS INCIDENT. SIMPSON ADMITTED TO LAW ENFORCEMENT AGENTS THAT SHE HAD IN FACT LIED ON BEHALF OF HER HUSBAND. THIS INCIDENT TOOK PLACE WITHIN LEXINGTON COUNTY.

Sworn to and subscribed before me on 07/17/2002

Signature of Issuing Judge

(L.S.)

Signature of Affiant

L. C. S. D.

Affiant's Address: 521 GIBSON RD.

Affiant's Telephone: LEX. SC 29072

Affiant's Address: 951-2481

STATE OF SOUTH CAROLINA

County/ Municipality of Lexington

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

If appearing from the above affidavit that there are reasonable grounds to believe that defendant KEISHA SIMPSON

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of) as set forth below:

DESCRIPTION OF OFFENSE: COMMON LAW

Now ORIGINALLY AND EMPLOYED AS directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge

(L.S.)

Judge's Address

521 GIBSON RD.

LEXINGTON, SC 29072

Judge's Telephone

951-2542

Issuing Court:

Magistrate

Municipal

Circuit

DATE 7/17/2002 PLACE L.C.C. N.C. TIME STARTED 0040 M.I, the undersigned, KEISHA MARSHAVE SIMPSON, am 28 years of age, my date of birth being the day of , 19 at S.C.My present address is RIVEL OAKS K-4 COLA, SCBefore answering any questions or making any statements, DETECTIVE S.R. FRIEL, a person who identified himself as a DETECTIVE w/ L.C.C.S.D.

DULY WARNED AND ADVISED ME:

KS (1) That I have the right to remain silent and not make any statement at all.KS (2) That any statement I do make can be used against me in court.KS (3) That I have the right to have an attorney present at any time during questioning.KS (4) That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.KS (5) That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

I LIED WHEN I TOLD THE POLICE I DIDN'T KNOW ABOUT THE MURDER. I WAS AFRAID, THAT IS WHY I LIED.

SEP03.02 085

I FIRST LEARNED ABOUT THE MURDER @ TRAVIS' MOM'S HOUSE. TRAVIS TOLD US HE AND RANDY WENT TO CORKY'S. HE SAID RANDY BEAT HIM IN THE HEAD AND SHOT HIM. TRAVIS LATER TOLD ME THAT HIS BROTHER SAMUEL, & HIS FRIEND TOOK THE GUN TO CHARLESTON. TRAVIS DID NOT TELL HIS MOM WHAT ~~THE~~ SAMUEL DID WITH THE GUN. TRAVIS SAID RANDY WAS MAD BECAUSE ~~CORKY~~ CORKY WAS SLEEPING w/ HIS WIFE. TRAVIS SAID HE GAVE THE GUN TO GET RID OF IT. (GAVE TO SAMUEL.)

Witness

Notary Public

My Commission expires 06/25/2007

Person giving Statement

Date

VOLUNTARY STATEMENT
(Not Under Arrest)

793

I, Keisha Marshae Simpson, am not under arrest, nor am I being detained for criminal offenses concerning the events I am about to make known to Det. J. J. Quig
C.C.S.O.

Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 28 years of age, and I live at _____

SEP 03 02
Ad Apt-K-6 077

I know my boyfriend for eight to nine months. He moved in my home 6 months ago. I knew Randy Tyler for about 5 months. He came over to my home ~~the~~ about 2 times. The first time is to put tattoos on my boy friend. The second time is see him. His wife Gina came with him both times. Randy would call him several times. He would leave to go meet him and come back. Randy call him on the phone. Saturday night he said he was going to work with his dad. He came in sometime about 1:30-~~2:00~~ Sunday morning. We're got into an argument about where he went. Cause I call his mom and she said she ~~had~~ sent him ~~home~~ early that day. He left again Sunday to go to his mom's house. We stayed at his mom's Sunday night. Come back here Monday. He kept getting phone calls from him once. Two Monday afternoon. Once today. We got into a argument. He told ^{me} ~~her~~ he was

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

Dated at 324 Busit River K-6

, this 16 day of 7 192002

WITNESS: _____

WITNESS: _____

Keisha Simpson

Signature of person giving voluntary statement.

WILL SA

VOLUNTARY STATEMENT OF SUSPECT OF DEFENDANT

Pg 2 of 5 pgs

going to go to his mom house he will be
back later so he got in the truck and he
lost.

KS

KS

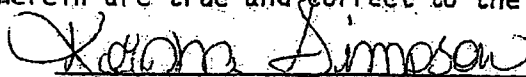
KS

KS

SEP0302

078

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.



Signature of person giving voluntary statement

Sworn to before me this 16 day of 7 19 2002 17 NOV 2010 C.C.S.D.
Notary Public of South Carolina

VOLUNTARY STATEMENT OF SUSPECT OF DEFENDANT

Pg 3 of 5 pgs

* What is your Boyfriend's Name? Travis Demi Dorsey
his SS His birthdate is May 17

* Why were Travis and Randy friends? He said they
went to strip club together and he does Travis
Tattoos

* What did you think they did when they went
out? They got drunk and had female dance on
there I didn't like what I told him he could be there
any more

* Did you ever see Travis with Drugs? NO

SEP 03 02

079

* Did you ever see Randy with Drugs? NO

* Did you ever see a gun? / gun, can or on
Travis's person? NO cause he couldn't have a gun
because he on probation his brother has gun at his
mom house. His mother stays at his mom house

* What time did Travis leave on 7/13/2002?

Around nine o'clock I know because I gave them
a ride and put them to bed. He said he was going
to work with his dad at Wachovia Bank.

I have read this page, initialed corrections or changes, if any, and received a copy of this
page. I certify that the facts contained herein are true and correct to the best of my know-
ledge.

Keaton Simpson

Signature of person giving voluntary statement

Sworn to before me this 16 day of 7 19 2002

Notary # 309 17 NOV 2010
Notary Public of South Carolina

VOLUNTARY STATEMENT OF SUSPECT OF DEFENDANT

Pg 4 of 5 pgs

* What time did Travis return on 7/14/2002?
 Between 1:30-2:00 am

* What was he wearing when he left? Orange
 Mike shirt and Jean shorts with his orange shoes

* What was he wearing when he returned? his
 orange shirt and Dark Jean shorts and his orange
 shoes. Some clothes he has today. I wash them now.
 * How was he acting? He was acting like he
 was tired and he took a shower and went to
 bed.

Why did you tell me you did not like Randy?
 Because how he act when the couple of time
 that he came to my house, he's talking about what
 * What kind of money did Travis have? He had
 about a little bit. I never seen him with lots of
 money. Just enough to buy me something or him clothes
 and ~~shoes~~ * What did he pay for around your house? He
 help me with some bills but I paid like my
 phone and lights. My rent and for my kids clothing
 and day care

I have read this page, initialed corrections or changes, if any, and received a copy of this
 page. I certify that the facts contained herein are true and correct to the best of my know-
 ledge.

Ronda Simpson

Signature of person giving voluntary statement

Sworn before me this 11 day of 7 19 2002

SEP 03 02 080

Notary Public of South Carolina

VOLUNTARY STATEMENT OF SUSPECT OF DEFENDANT

Pg 5 of 5 pgs

How do you know Travis's brother has guns?
He told about ~~the~~ we got a gun once at his
mom's house.

* How much money did he spend and help you
with each month. He gives me about \$200⁰⁰ ~~4000~~
a month.

SEP0302 081

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Korina Simpson
Signature of person giving voluntary statement

Sworn to before me this 16 day of 7 2002

17 Nov 2010

Notary Public of South Carolina

DATE 07/15/2002 PLACE L.C.S.O. TIME STARTED 1353 M.I, the undersigned, Johnny Hutto, am 44 years of age, my date and place of birth being the 1 day of , 194 at .My present address is LANE GASTON, S.C.Before answering any questions or making any statements, DETECTIVE S.R. Flier, a person who identified himself as a DETECTIVE W/ L.C.S.O.

DULY WARNED AND ADVISED ME:

JMH (1) AB That I have the right to remain silent and not make any statement at all.JMH (2) AB That any statement I do make can be used against me in court.JMH (3) AB That I have the right to have an attorney present at any time during questioning.JMH (4) AB That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.JMH (5) AB That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

I DID NOT TELL SOME FACTS ABOUT WHAT TOOK PLACE AFTER DONNA CAME TO MY HOME ON SATURDAY NIGHT. WHEN SHE GOT THERE. DONNA SHOWED UP "FREAKING OUT" SHE SAID "RANDY WAS AT THE HOUSE, IT SOUNDED LIKE THEY WERE FIGHTING" SHE WAS AFRAID THAT RANDY WAS GOING TO HURT HER AND CORKY BECAUSE HE KEPT WANTING TO COME INTO THE HOUSE. I ASKED DONNA, "RANDY WHO" SHE SAID, "GRAY HAIRED RANDY" I THEN TOOK A SUB NOSED .38 PISTOL FROM MY HOME. CORKY HAD GIVEN ME THE GUN TO HOLD FOR HIM. I KNOW I AM NOT ALLOWED TO HAVE A GUN. I AM ALSO UNDER SUSPENSION ON MY DRIVERS LICENSE. I TOLD DONNA AND MY WIFE TO STAY THERE. I THEN TOOK THE PISTOL AND DROVE TO CORKY'S HOUSE. I SAW CORKY ON THE FLOOR AT THE FRONT DOOR. THE

Witness Notary Public Patricia D. DyerMy Commission expires 06/25/2007John M. Hutto
Person giving StatementDate 7/15/02

SEP 03 02

184

JOHNNY HUTTO

799

DATE _____ PLACE _____ TIME STARTED _____ M.

I, the undersigned, _____, am _____ years of age, my date
and place of birth being the _____ day of _____, 19____, at _____.

My present address is _____.

Before answering any questions or making any statements, _____,

a person who identified himself as a _____.

DULY WARNED AND ADVISED ME:

1. That I have the right to remain silent and not make any statement at all.
2. That any statement I do make can be used against me in court.
3. That I have the right to have an attorney present at any time during questioning.
4. That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
5. That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

DOG WOULD NOT LET ME GET TO THE DOOR. I THEN
DROVE BACK TO MY HOUSE. DONNA AND MY WIFE HAD LEFT.
I TRIED TO CALL BACK TO CORRY'S AFRAID THEY HAD
TRIED TO GO BACK THERE. THEY DROVE BACK UP
AND I CALLED 911.

~~I DID NOT TELL THE POLICE THIS BECAUSE~~
~~I KNEW I COULD NOT POSSESS A PISTOL~~
AND DRIVE THAT CAR.

WHEN I WALKED AWAY FROM CORRY'S HOUSE
WHEN I SAW HIM ON THE FLOOR, I SCREAMED
OUT, "FUCK YOU RANDY" BECAUSE I
SAW CORRY, & DONNA HAD TOLD ME HE
WAS THERE WITH CORRY.

SEP 03 02 185

Witness _____

Notary Public _____

My Commission expires 06/25/2007

John M. Hutto

Person giving Statement

7/15/2002

Date

VOLUNTARY STATEMENT
(Not Under Arrest)

I, JOHN MARSHALL HUTTO, am not under arrest, nor am I being detained for
any criminal offenses concerning the events I am about to make known to TODD
STRANGE.

Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 45 years of age, and I live at LAKE GASTON, S.C. 29053

I was watching T.V. and my sister Donna Hutto drove up at my house. She came to the door crying. She said "You need to come with me, I don't know what's going on". She said "Randy and Corky wake me up yelling and arguing in the shop". "Randy may be killing Corky by now." I called 911 and told the dispatcher Randy and Corky were at the house fighting. Donna, my wife Susan, and I got in Donna's car and came to the tree house where we found Corky laying in the doorway. We got Donna's dog and left to go back to call 911 on the phone again. We passed a deputy, turned around and came back to the house. J M. H.

SEP.03.02 183

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

Dated at 1839 SAVANNAH HIGHWAY NORTH, S.C. 29112 this 14 day of JULY 2002.

WITNESS:

WITNESS:

John M. Hutto
Signature of person giving voluntary statement

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON) INTERVIEW OF JAMES T. WILLIAMS

STATEMENT TAKEN ON July 16, 2002

STATEMENT PREPARED BY: Charlotte Avery, Secretary, L C S D

Frier: The following is a tape-recorded interview being conducted at the Lexington County Sheriff's Department on July 16, 2002. Interview begins at approximately 1650 hours. Subject being interviewed is James T. Williams (W I L L I A M S). He's 44 years of age. His birthday is the day of . Social Security number is . Mr. Williams resides at F Road in the Gadsden area of Richland County, South Carolina. Mr. Williams, the information I just read about you, is all true?

Williams: Yes, Sir.

Frier: And, earlier today I read you your rights and you waived those rights and gave me a brief statement. You understood those rights when we read them earlier?

Williams: Yes.

Frier: And they were that you had the right to remain silent, not make any statement at all, any statement I do make can be used against me in court, that I have the right to have an attorney present at any time during questioning, that if I cannot afford an attorney I can apply to the court to have one appointed at no cost to me. That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for any further questioning. We reviewed all those earlier. Is that correct?

Williams: Yes, Sir.

Frier: You understood those?

Williams: Yes, Sir.

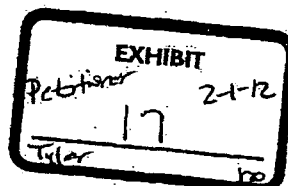
Frier: And you're willing to talk to me now without a lawyer. Is that correct?

Williams: Yes, Sir.

Frier: All right. Now briefly earlier this week you gave law, matter of fact it was on Sunday, you gave law enforcement officer a statement that you had been fishing on Saturday night with Randy Tyler.

Williams: Yes, Sir.

Frier: That was not true.



802 STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Personally appeared before me: James T. Williams

Page - 2 -

Williams: No, Sir. It was false.

Frier: And you did that. Who asked you to give the police a false statement?

Williams: Randy Tyler asked me to. As we was kind of, this, the boy Travis was afraid of his brother coming down and doing something to his wife and his baby.

Frier: Okay. Now, with that in mind, I want, I want to get, you've given me a brief statement about what actually happened on Saturday, that you signed earlier. Correct?

Williams: Yes, Sir.

Frier: All right. I want to expound on that a little bit. Okay?

Williams: All right.

Frier: Now, in reviewing what you said earlier, Saturday afternoon Randy Tyler asked you to take him to Travis' house.

Williams: Yes, Sir. His car wasn't working. He asked me to drive him over there.

Frier: That was Randy.

Williams: Yes, Sir.

Frier: Now, you knew Travis before this.

Williams: I had met him a couple times.

Frier: He's a friend of Randy's.

Williams: Yes, Sir.

Frier: He's a white male.

Williams: Right.

Frier: Dark skinned, you said.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Personally appeared before me: James T. Williams

Page - 3 -

Williams: Yes, Sir.

Frier: About, I think you said 25-30 years old.

Williams: At least that's what he looks to me.

Frier: He lives in some apartments. You turn by the K-Mart on St. Andrews Road. You go down that road. There's a Pantry store and he lives in some apartments back there.

Williams: Behind the Pantry.

Frier: Are those predominantly occupied by black people or white people, or do you know?

Williams: Everybody I seen was black.

Frier: Everybody in there you seen was black.

Williams: Everybody I seen was black.

Frier: Okay. Do you remember the apartment number?

Williams: No, Sir.

Frier: Okay. Now, does Travis live alone at that apartment?

Williams: He lives with a black girl, there was three ah three kids in the house and the black girl.

Frier: Do you know what the black girl's name was?

Williams: No, Sir. I sure don't.

Frier: Okay. Now, when Randy asked you to take him to Travis' house. Did he tell you what was going to happen?

Williams: No, Sir. He said that him and Travis was going to ride to Corky's and talk to Corky.

Frier: Did he tell you that before ya'll left your house or did he tell you that while ya'll were riding over there?

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Personally appeared before me: James T. Williams

Page - 4 -

Williams: He told me that while we was riding over there.

Frier: Okay. Now, what did Randy tell you they were going to Corky's house for?

Williams: To, he was upset with him. He wanted me to talk to him.

Frier: By upset, Randy was mad at Corky?

Williams: He, he, I would say mad.

Frier: Okay. What was he mad about?

Williams: I, all I know is that to me it seemed like it was something about money.

Frier: And you're basing that on he said something about what Corky and who?

Williams: His brother Matt.

Frier: Randy's brother.

Williams: Randy's, Randy's brother, Matt.

Frier: And what did Randy believe Matt and Corky had done?

Williams: I just, Matt had come down the week before and hooked up with Corky and I, as far as I know, I wouldn't know what he believes they'd done. But, he just said something about money.

Frier: But Randy led you to believe he was mad at Corky about some money.

Williams: Right.

Frier: All right. So ya'll get to Travis' home. Is Travis there?

Williams: Yes, Sir.

Frier: What did Randy and Travis talk about?

Williams: They went in the back to talk.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Personally appeared before me: James T. Williams

Page - 5 -

Frier: Okay.

Williams: I was in the living, ah in the kitchen part of the dining room. I was sitting at the dining room table.

Frier: Okay.

Williams: Just a small apartment. There just kitchen, dining room and living room, more or less right there.

Frier: Okay. Then what happened?

Williams: Ah, I stepped in the back to let Randy know that I was just, if he was going to stay there I was going to go ahead and head home. I told him.

Frier: Let me go before that. Who was at that apartment when ya'll got there?

Williams: Travis, his girlfriend and them three kids.

Frier: How old are them kids?

Williams: Oh, man. Looked like the little boy was probably, oh just, I don't know, five-six years old.

Frier: They were little guys?

Williams: Yeah, they were little kids. None of them over about 10 or 11.

Frier: Now, when you went to the back room. What were Randy and Travis talking about?

Williams: I'm not sure. I stepped in

Frier: Hold on one second. Let me pause this tape one moment.

Frier: Okay. Statements continuing. Same persons still present as when interview began. Ahm, Mr. Williams, that interruption was ah someone else had to speak to me about this issue, but out of your presence and the tape stayed off the entire time. Is that correct?

Williams: Yes, Sir.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Personally appeared before me: James T. Williams

Page - 6 -

Frier: And you weren't questioned while the tape was off?

Williams: No, Sir.

Frier: Okay. All right. Continuation of the interview. Now, basically we were, you going back in the room where Travis and Randy are. What are Travis and Randy talking about?

Williams: I wasn't, they just said something about going over there and talking to Corky and then I told them that

Frier: Travis and Randy are both talking about going to see Corky?

Williams: Yes, Sir.

Frier: Okay. Now, did you see any evidence of a gun?

Williams: I seen the clip.

Frier: Now by clip, do you mean a magazine?

Williams: Exactly. That's whatever you call it.

Frier: Holds, holds bullets

Williams: Right.

Frier: For a gun?

Williams: Right. That's what I believe I seen. It was laying on the dark bed. It was dark and I believe, I'm sure that's what I seen.

Frier: Did it look like it had bullets in it?

Williams: I seen the gold tip, the gold corner on it, so I figured it had bullet in it.

Frier: Okay. So you saw a magazine that you thought had a bullet or at least a bullet in.

Williams: Yes, Sir.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

Personally appeared before me: James T. Williams

Page - 7 -

Frier: All right. Did you see a gun?

Williams: I don't recall seeing a gun.

Frier: What happened then?

Williams: I told Randy that, that I was going to go ahead and get out. That if he was going to stay, I was going to go ahead and get out of there and Randy lit a cigar and I walked back into the living room where I was at before.

Frier: Okay. Did anybody mention a gun while you were there?

Williams: That little kid. When that little boy come back out from back in the back he said something about Travis had a gun.

Frier: The little boy said Travis had a gun?

Williams: The little boy said Travis had a gun and Travis said, no I didn't.

Frier: And then what happened?

Williams: Ah, that's when I told Randy I was going to get on out of there. I know the woman say something to Travis about a gun. He said he didn't have one. And I told Randy that I was going to go ahead and leave and I went out the door and I went home.

Frier: Okay. But you heard the little boy say Travis had a gun.

Williams: Yes, Sir. I heard

Frier: You saw a magazine for a gun on the bed.

Williams: Yes, Sir.

Frier: Okay. Did you go to Corky's house?

Williams: No, Sir.

Frier: Where did you go after you left Travis'?

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Personally appeared before me: James T. Williams

Page - 8-

Williams: I went straight home.

Frier: The next morning you had a conversation with Randy?

Williams: Yes, Sir.

Frier: Where was that conversation at?

Williams: In my backyard.

Frier: At 8009 Bluff Road in Richland County.

Williams: Yes, Sir.

Frier: What did Randy say?

Williams: He was scared. He said that ah that they had got him, him and Corky had been arguing and that ah that Travis had pulled the gun out and shot Corky and that flipped him out, you know, scared Randy and he said that Corky, that ah Travis had shot Corky a few times and that Corky was, he said he knowed Corky was dead. He said Corky was, had hit the floor. He said he knowed he was dead.

Frier: Who did Randy say shot Corky?

Williams: Travis.

Frier: Did Randy say he shot him?

Williams: No, Sir. Randy said Travis shot him. I know Randy didn't have a gun. When we left the house, cause I don't allow no gun in my truck. I'm just, you know

Frier: But you, but you don't know that like from the time you left him, he could have gotten a gun before he got to Corky's.

Williams: He, he could have.

Frier: But Randy never said he shot

Williams: No, Sir. Randy said Travis shot Corky.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Personally appeared before me: James T. Williams

Page - 9 -

Frier: Did Randy say anything about anybody striking Corky with anything?

Williams: No, Sir.

Frier: But Randy clearly admitted to you that he was at Corky's house

Williams: Yes, Sir.

Frier: Arguing with Corky

Williams: Yes, Sir.

Frier: When Randy, when, when Travis shot Corky?

Williams: Yes, Sir.

Frier: So Randy was there arguing with Corky and witnessed Travis shoot Corky.

Williams: Yes, Sir.

Frier: Okay. And as a result Randy asked you to do something and you were questioned by the police.

Williams: Yes, Sir.

Frier: What was that?

Williams: He asked me to tell them that we had been fishing the, that Saturday night.

Frier: To cover what?

Williams: Just, ah he was afraid that, you know, til we got Travis in trouble, then his, Travis' brother Sammy might come over and do something to the kid. He was scared and I was scared for the, for Gina and (Inaudible), too.

Frier: So, when you were requested by police the first time, not only did you lie about the fishing, but you failed to tell them that you took Randy to Travis' house and that Randy and Travis were going to Corky's and that Randy later told you what happened at Corky's.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Personally appeared before me:

James T. Williams

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Williams: Yes, that's right.

Frier: Okay. And you understand that was wrong.

Williams: Yes, Sir. I understand that was wrong, and it bothered me real bad.

Frier: And when I talked to you today you, you came out and told me the truth.

Williams: Yes, Sir. I did because it was on my conscience and I couldn't stand it. I just ah trying to straighten my life up and you don't do it this way.

Frier: Do you understand the error in your way of not being truthful?

Williams: Yes, Sir. I do.

Frier: And is what you just told me today the absolute truth to the best of your knowledge?

Williams: Yes, Sir.

Frier: And you're not withholding any information at this point?

Williams: No, Sir.

Frier: All right. Interview is concluded. Same persons present as when interview began.

DATE 07/16/2002 PLACE L.C.S.D. TIME STARTED 2034 M.I, the undersigned, TRAVIS DEMIE HARSEY am 24 years of age, my date and place of birth being the 1 day of MISS., 1978, at MISS.My present address is RD. COLA, SCBefore answering any questions or making any statements, DETECTIVE S.R. FRIER, a person who identified himself as a DETECTIVE w/ L.C.S.D.

DULY WARNED AND ADVISED ME:

- DH ① That I have the right to remain silent and not make any statement at all. PH
 DH ② That any statement I do make can be used against me in court.
 DH ③ That I have the right to have an attorney present at any time during questioning.
 DH ④ That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
 PH ⑤ That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

I DO WISH TO TALK WITHOUT A LAWYER AT THIS TIME. I AM ASKING
THAT AFTER I PROVIDE THIS STATEMENT THAT I BE ALLOWED
TELEPHONE TIME SO THAT I CAN CALL MY FAMILY AND THEN
MY LAWYER. I AM ALSO ASKING THAT A COPY OF THIS STATEMENT
BE GIVEN TO MY LAWYER AS SOON AS POSSIBLE. PH

I HAVE KNOWN RANDY AND HIS BROTHER MATT SINCE ABOUT '98-99
KNOWS RANDY LONGER. THEY ARE BOTH VERY VIOLENT AND HATE EACH
OTHER. I SAW MATT AT 4th OF JULY WEEKEND. HE WAS
AT THE RAMADA @ CHARLESTON HWY. Room 110 OCT. 14.02 045
SEP. 03.02 045

SATURDAY THAT JUST PASSED. RANDY CALLED ME AT HOME
AROUND 2:00 PM. HE LATER CALLED ME AND WAS MAD
BECAUSE HE THOUGHT I SHOULD HAVE TOLD HIM I SAW
MATT. HE SAID MATT OWED HIM \$20,000. HE SAID

Witness

Notary Public

My Commission expires 06/25/2007

Person giving statement

Date

~~SUSPECT~~
VOLUNTARY STATEMENT OF ~~VICTIM~~ WITNESS

Pg 2 of 3 pgs

He needed money. He thought I had money because he knew I sold my bike. I told Randy if he wanted \$2000. Come over. Jimmy brought him to my house. Jimmy came into my house. He also came back to my bedroom. We all three left my house at the same time. Jimmy left in his little blue truck. He did not go with me and Randy. I left River Oaks in my Buick Cadillac w/ Randy. I was driving. I have a Glock .40 at my house. I did not know that Randy took that gun out of my house. I did not have the gun on me. While together, we decided to go to Randy's house. While going, Randy then brings up going to Corky's house while on the way to I-26. Randy is mad at Corky because Corky is "fucking his old lady". I had my multi ^{TDH} million dollar business took from me. & he wants to get compensated because he

SEP 03 02

046

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

OCT 14 02

046

Travis Haney
Signature of person giving voluntary statement

SWORN TO BEFORE me this the
14 day of July 2002.

Scottie D. Dria
NOTARY PUBLIC SOUTH CAROLINA
06/25/2007

WITNESS - [Signature]

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 3 of 3 pgs

Brother "hooked up w/ Corky" I had never been
 to Corky's house before this night. When we
 got there. Randy had me park at the top of the drive at the road.
 He said the man is "Big Time" We walked to the house
 and went into the garage. Randy moved fast to Corky.
 He was saying all kinda stuff to Corky, "From casual
 to irate" about his wife, his "million dollar business"
 & his money. He then punched Corky w/ his fist & said
 "Don't you lie to me." Randy then pulls my pistol out of his pants
 I did not know he had this gun. He hit Corky in the head
 several times w/ the gun. Corky started bleeding. Randy then
 dragged Corky into the house. I stayed outside. I went to
 my car. I then heard several gunshots. I was not in the
 house when the shots were fired. I waited at my car. Randy
 came to the car, he was now wearing a mask and gloves. Randy
 was still raising hell about Corky fucking his wife. I took Randy
 back to his house. I don't take the gun or shells from the house. I'm thinking
 I believe Randy planned to use \$2000. I let him hold to score dope. That
 money had come from when I sold my bike to Matt. End of statement. TO

I have read this page, initialed corrections or changes, if any, and received a copy of this
 page. I certify that the facts contained herein are true and correct to the best of my
 knowledge.

Signature of person giving voluntary statement

SEP03.02 047

OCT. 14.02 047

SWORN TO BEFORE me this the
 16 day of July 2002.

Scotty D. Dine
 NOTARY PUBLIC SOUTH CAROLINA
 06/25/2007

WITNESS -

DATE 07/17/2002 PLACE L.C.D.C. TIME STARTED 0104 M.I, the undersigned, TRAVIS D. HARSEY, am 26 years of age, my date of birth being the 1 day of 1, 1975 at MISS.My present address is K-6.Before answering any questions or making any statements, DETECTIVE S.R. FRIEL, a person who identified himself as a DETECTIVE W/ L.C.S.P.

DULY WARNED AND ADVISED ME:

- ① I have the right to remain silent and not make any statement at all.
 ② That any statement I do make can be used against me in court.
 ③ I have the right to have an attorney present at any time during questioning.
 ④ That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
 ⑤ That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

I LIED WHEN I SAID I DIDN'T HAVE ANYTHING TO DO WITH THE GUN WHEN RANDY AND I LEFT CORCY'S. WHILE IN THE CAR, I TOOK THE GUN BACK FROM RANDY. RANDY MUST HAVE HAD THE SHELL CASINGS, BUT I DIDN'T SEE THEM. I KEPT THE GUN IN THE CADILLAC. ON SUNDAY, I TOLD MY MOMMA, SAMMY, KEISHA, & MY DAD WHAT HAPPENED. I TOLD THEM RANDY SHOT HIM. THIS WAS AT MOM & DAD'S HOUSE.

AT MY MOMMA'S HOUSE, I GAVE SAMMIE THE MURDER WEAPON. I TOLD SAMMIE THAT THIS WAS THE GUN RANDY USED TO KILL CORCY. SAMMIE ASKED ME IF I WANTED HIM TO GET RID OF IT. SAMMIE TOOK THE GUN AND HAS NEVER TOLD ME HOW HE GOT RID OF IT.

Witness

Notary Public

My Commission expires 06/25/2007

Person giving Statement

Date

SEP 03 02 048

OCT 14 02 048

07/17/2002

DATE JULY 17, 2002TIME STARTED 0020 M.I, the undersigned, SAMUEL TULLMAN HASKIN am _____ years of age, my dateand place of birth being the _____ day of _____, 19____, at TEXAS

My present address is

544 RD., W. COLA, S.C. 29172Before answering any questions or making any statements, P.C. FAGLERa person who identified himself as a DETECTIVE, L.C.S.D.

DULY WARNED AND ADVISED ME:

- SH 1 That I have the right to remain silent and not make any statement at all.
- SH 2 That any statement I do make can be used against me in court.
- SH 3 That I have the right to have an attorney present at any time during questioning.
- SH 4 That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
- SH 5 That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

I SH drove to Charleston Sunday afternoon. I wrap it up
in SH napkins and throw the gun off the bridge like it was
trash. I SH drove back home SH ~~to my house~~.

Q WHAT DID YOU THROW OFF THE BRIDGE?

A. A Gun that I wrap up napkins.

Q WHO DID YOU GET THE GUN FROM AND
DESCRIBE THE GUN?

A. From my brother Travis Glock 40 Cal

Q. WHO WENT WITH YOU TO CHARLESTON AND
WHO'S CAR DID YOU GO IN?

A. I went to Charleston by my self and I hired a Lincoln
town Car that is sam Austin.

SEP 03 02 064

Q WHERE DOES SAM AUSTIN LIVE, WHAT IS HIS PHONE
NUMBER AND DESCRIBE HIM?

A. 228 New Cassel no phone white male.

OCT 14 02 064

Witness

P.C. Fagler

Notary Public

WITNESS / 7/17/02

My Commission expires _____

Person giving Statement

Date

7/17/02

SUSPECT RCT.
VOLUNTARY STATEMENT OF ~~VICTIM / WITNESS~~

Pg 2 of 2 pgs

Q. DID YOUR BROTHER TAVIS TELL YOU ANYTHING ABOUT WHY HE HAD THE PISTOL AND WHY HE WANTED YOU TO DISPOSE OF IT?

A. He told me Randy shoot some one & that he ^{SB} need me to do something with the gun. Because I am his brother I wish that was not so.

OCT 14 02

065

SEP 03 02

065

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Signature of person giving voluntary statement

worn to before me this 17 day of JULY 2002

Notary Public of South Carolina

10/17/2002

Pg 1 of 3 pgs

DATE 07/16/2002 PLACE L.C.S.D. TIME STARTED 2034 M.

I, the undersigned, TRAVIS DEMIE HARSEY, am 24 years of age, my date and place of birth being the 1 day of _____, 1981, at MISS.

My present address is 12 RD. COLA, SC

Before answering any questions or making any statements, DETECTIVE S. R. FRIER,
a person who identified himself as a DETECTIVE W/ C. C. S. D.

DULY WARNED AND ADVISED ME:

① That I have the right to remain silent and not make any statement at all. 
 ② That any statement I do make can be used against me in court.
 ③ That I have the right to have an attorney present at any time during questioning.
 ④ That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
 ⑤ That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

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I DO WISH TO TALK WITHOUT A LAWYER AT THIS TIME. I AM ASKING THAT AFTER I PROVIDE THIS STATEMENT THAT I BE ALLOWED TELEPHONE TIME SO THAT I CAN CALL MY FAMILY AND THEN MY LAWYER. I AM ALSO ASKING THAT A COPY OF THIS STATEMENT BE GIVEN TO MY LAWYER AS SOON AS POSSIBLE. ~~PH~~ T D H

I HAVE KNOWN RANDY AND HIS BROTHER MATT SINCE ABOUT '98-99
KNOWS RANDY LONGER. THEY ARE BOTH VERY VIOLENT AND HATE EACH
OTHER. I SAW MATT AT ~~THE~~ OF JULY WEEKEND. HE WAS
AT THE RAMADA @ CHARLESTON HWY. Room 110CT.14.02 045
SEP03.02 045

SATURDAY THAT JUST PASSED. RANBY CALLED ME AT HOME AROUND 2:00 PM. HE LATER CALLED ME AND WAS MAD BECAUSE HE THOUGHT I SHOULD HAVE TOLD HIM I SAW MATT. HE SAID MATT OWES HIM \$20,000. HE SAID

Witness

Notary Public

My Commission expires 06/30/2007

Thomas Hansen
Person giving Statement
07/16/2002
Date

Date _____

~~SUSPECT~~
VOLUNTARY STATEMENT OF ~~VICTIM / WITNESS~~

Pg 2 of 3 pgs

HE NEEDED MONEY. HE THOUGHT I HAD MONEY BECAUSE HE KNEW I SOLD MY BIKE. I TOLD RANDY IF HE WANTED \$2000. COME OVER. JIMMY BROUGHT HIM TO MY HOUSE. JIMMY CAME INTO MY HOUSE. HE ALSO CAME BACK TO MY BEDROOM. WE ALL THREE LEFT MY HOUSE AT THE SAME TIME. JIMMY LEFT IN HIS LITTLE BLUE TRUCK. HE DID NOT GO WITH ME AND RANDY. I LEFT RIVER DAKS IN MY BURGANDY CADILLAC W/ RANDY. I WAS DRIVING. I HAVE A GLOCK .40 AT MY HOUSE. I DID NOT KNOW THAT RANDY TOOK THAT GUN OUT OF MY HOUSE. I DID NOT HAVE THE GUN ON ME. WHILE TOGETHER, WE DECIDED TO GO TO RANDY'S HOUSE. WHILE GOING, RANDY THEN BRINGS UP GOING TO COCKEY'S HOUSE WHILE ON THE WAY TO I-26. RANDY IS MAD AT COCKEY BECAUSE COCKEY IS "FUCKING HIS OLD LADY". I HAD MY MULT^{TDH} MILLION DOLLAR BUSINESS TOOK FROM ME " & HE WANTS TO GET COMPENSATION BECAUSE HIS

SEP 03 02

046

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

OCT 14 02

046

Travis Hansey
Signature of person giving voluntary statement

SWORN TO BEFORE me this the
14 day of July 2002.

Scottie B. Dine
NOTARY PUBLIC SOUTH CAROLINA

06/25/2007

WITNESS - [Signature]

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 3 of 3 pgs

BROTHER "HOOKED UP w/ CORKY" I HAD NEVER BEEN TO CORKY'S HOUSE BEFORE THIS NIGHT. WHEN WE GOT THERE. RANDY HAD ME PARK AT THE TOP OF THE DRIVE AT THE ROAD. HE SAID THE MAN IS "BIG TIME" WE WALKED TO THE HOUSE AND WENT INTO THE GARAGE. RANDY MOVED FAST TO CORKY. HE WAS SAYING ALL KINDA STUFF TO CORKY, "FROM CASUAL TO IRATE." ABOUT HIS WIFE, HIS "MILLION DOLLAR BUSINESS" & HIS MONEY. HE THEN PUNCHED CORKY w/ HIS FIST & SAID "DON'T YOU LIE TO ME." RANDY THEN PULLED MY PISTOL OUT OF HIS PANTS I DID NOT KNOW HE HAD THIS GUN. HE HIT CORKY IN THE HEAD SEVERAL TIMES w/ THE GUN. CORKY STARTED BLEEDING. RANDY THEN ORDERED CORKY INTO THE HOUSE. I STAYED OUTSIDE. I WENT TO MY CAR. I THEN HEARD SEVERAL GUNSHOTS. I WAS NOT IN THE HOUSE WHEN THE SHOTS WERE FIRED. I WAITED AT MY CAR. RANDY CAME TO THE CAR, HE WAS NOW WEARING A MASK AND GLOVES. RANDY WAS STILL RAISING HELL ABOUT CORKY FUCKING HIS WIFE. I TOOK RANDY BACK TO HIS HOUSE. I DON'T TAKE THE GUN OR SHOTS FROM THE HOUSE. IM THINKIN I BELIEVE RANDY RANWID TO USE \$2000. I LET HIM HOLD TO SCORE DOPE. THAT MONEY HAD COME FROM WHEN I SOLD MY BIKE TO WATT. END OF STATEMENT: TO.

I have read this page, initialed correctons or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Frank Ramsey
Signature of person giving voluntary statement

SEP 03 02 047

OCT 14 02 047

SWORN TO BEFORE me this the
16 day of JULY 2002.

Scotty D. Dine
NOTARY PUBLIC SOUTH CAROLINA
04/25/2007

WITNESS - [Signature]

DATE 07/17/2002 PLACE L.C.D.C. TIME STARTED 0106 M.I, the undersigned, TRAVIS D. HARSEY, am 26 years of age, my date of birth being the 7 day of MISS, 1976, at MISS.My present address is KS K-6.Before answering any questions or making any statements, DETECTIVE S.R. FRIER, a person who identified himself as a DETECTIVE W/ L.C.S.D..

DULY WARNED AND ADVISED ME:

- DH (1) ~~that~~ I have the right to remain silent and not make any statement at all.
 DH (2) ~~that~~ any statement I do make can be used against me in court.
 DH (3) ~~that~~ I have the right to have an attorney present at any time during questioning.
 DH (4) ~~that~~ if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
 DH (5) ~~that~~ if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

I LIED WHEN I SAID I DIDN'T HAVE ANYTHING TO DO WITH THE GUN WHEN RANDY AND I LEFT CORKY'S. WHILE IN THE CAR, I TOOK THE GUN BACK FROM RANDY. RANDY MUST HAVE HAD THE SHELL CASINGS, BUT I DIDN'T SEE THEM. I KEPT THE GUN IN THE CADILLAC. ON SUNDAY, I TOLD MY MOMMA, SAMMY, KEISHA, & MY DAD WHAT HAPPENED. I TOLD THEM RANDY SHOT HIM. THIS WAS AT MOM & DAD'S HOUSE.

AT MY MOMMA'S HOUSE, I GAVE SAMMIE THE MURDER WEAPON. I TOLD SAMMIE THAT THIS WAS THE GUN RANDY USED TO KILL CORKY. SAMMIE ASKED ME IF I WANTED HIM TO GET RID OF IT. SAMMIE TOOK THE GUN AND HAS NEVER TOLD ME HOW HE GOT RID OF IT.

Witness

Notary Public

My Commission expires 06/25/2007

/TDH SEP.03.02 048

Travis Harsey OCT.14.02 048

Person giving Statement

07/17/2002

Date

DATE JULY 17, 2002TIME STARTED 0020 M.I, the undersigned, SAMUEL TILLMAN HARSEY am _____ years of age, my dateand place of birth being the _____ day of 1, 1982, at TEXAS

My present address is _____

10, W. COLA, S.C. 29172Before answering any questions or making any statements, P.C. FAGLERa person who identified himself as a DETECTIVE, L.C.S.D.

DULY WARNED AND ADVISED ME:

- SH 1. That I have the right to remain silent and not make any statement at all.
- SH 2. That any statement I do make can be used against me in court.
- SH 3. That I have the right to have an attorney present at any time during questioning.
- SH 4. That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
- SH 5. That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

I^{SH} drove to Charleston Sunday afternoon. I wrap it up in napkins^{SH} and throw the gun off the bridge like it was trash. I drove^{SH} back home. ~~I drove back home.~~^{SH}

Q WHAT DID YOU THROW OFF THE BRIDGE?

A A Gun that I wrap up napkins.

Q WHO DID YOU GET THE GUN FROM AND DESCRIBE THE GUN?

A From my brother Travis Glock 40 Cal

Q WHO WENT WITH YOU TO CHARLESTON AND WHO'S CAR DID YOU GO IN?

A I went to Charleston by my self and I hired a Lincoln town car that is sam Austin.

SEP 03.02 064

Q WHERE DOES SAM AUSTIN LIVE, WHAT IS HIS PHONE NUMBER AND DESCRIBE HIM?

A 228 New Cassel no phone white male.

OCT 14.02 064

Witness

P.C. Fagler

Notary Public

WITNESS / 7/17/02

My Commission expires _____

Person giving Statement

Date

7/17/02

SUSPECT RCT.
VOLUNTARY STATEMENT OF ~~VICTIM / WITNESS~~

Pg 2 of 2 pgs

Q. DID YOUR BROTHER TRAVIS TELL YOU ANYTHING ABOUT WHY HE HAD THE PISTOL AND WHY HE WANTED YOU TO DISPOSE OF IT?

A. He told me Randy shoot some one & that he st need me to do something with the gun. Because I am his brother I wish that was not so.

OCT 14 02 065

SEP 03 02 065

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Signature of person giving voluntary statement

Worn to before me this 17 day of JULY 2002

[Signature]
Notary Public of South Carolina

105604 WITNESS

SCANNED

2007-CF-32-0823

UNDERLYING FACTS IN SUPPORT OF PETITIONER'S
REQUEST TO RECONVENE WHILE THE RECORD IS STILL OPEN

FILED
2012 APR 16 P 3: 20

During the PCR hearing convened February 1, 2012, Petitioner's counsel through Detective Vicki Hallman attempted to authenticate some of the 200 crime scene photos taken by Hallman (see attached discovery work sheet) during the investigation of the underlying offense. While Hallman testified she did not know if the crime scene photo proffered by counsel were actual copies of the crime scene photos taken by Hallman. She did not deny they were either. What this Honorable Court was not informed of during the PCR hearing was December 30, 2010 the Honorable Judge Knox McMann issued an order granting post conviction discovery to obtain the 200 crime photos from the Lexington County Sheriff's Department (attached).

Therefore, since the burden of proof is on the applicant in a PCR setting, Rule 71.1(e), SCRPC, to establish his entitlement to the relief requested by the preponderance of the evidence, it is imperative that Petitioner respectfully requests to reconvene while the record is still open to authenticate the proffered crime scene photos as evidence and to give testimony in support of what the proffered photos actually depict, since the proffered photos, when considered as evidence, refute State's witness Donna Butto's testimony and State's exhibit 5, crime scene video with clear and convincing material facts that go to credibility, guilt and innocence.

This Honorable Court enjoys discretion to take judicial notice of the facts and records before it and to consider additional evidence as the Court deems just and as Petitioner has alleged the underlying inappropriate actions by the State in an unjust manipulation of the evidence that was deliberately placed before the jury during Petitioner's trial and can therefore order all 200 of the crime scene photos to be provided to the Court. The pictures will show one of which, Petitioner testified during PCR that Detective Luke Fossum took a picture of Petitioner and his hands at the Lexington County Detention Center the day Petitioner was arrested that reveals injuries on the side of Petitioner's knuckles and finger print ink on Petitioner's hands from being booked in. Secondly, Petitioner testified during PCR that Vicki Hallman came to the Lexington County Detention Center 10 days later on July 23, 2001 and took pictures of Petitioner and his hands which reveals no injuries or booking ink. This Court has before it (2) two different pictures of Petitioner's hands, [both] of which were admitted during PCR, but this Court did not allow the second picture of Petitioner himself, to come in since the photo could not be authenticated. Petitioner testified during PCR that the Prosecution "switched" the pictures of Petitioner's hands during trial and that Hallman gave false testimony during trial regarding the photos, as elicited by the Prosecution, and would support Petitioner's prosecutorial misconduct claim, which the State did not deny or attempt to refute during the PCR hearing. Clearly if this Honorable Court

orders the complete set of 200 crime scene photos to be brought before it there will undoubtedly be (2) two different pictures of Petitioner and his hands that the State cannot explain away.

Thirdly, the proffered crime scene photos refute the State's evidence and Donna Hutto's testimony, and are corroborated by Petitioner and Vicki Hallman's testimony of the atmosphere the night of the incident, i.e. one of the proffered crime scene photos show the house from the "front" with the "door closed" and the "lights on". That photo as well as the crime scene video were taken [after] the fact, since when comparing them to the other proffered photos that reveal it was dark out there that night, and it is elementary that one could not video tape or take pictures in the "dark" so artificial lighting was undoubtedly used. But, it is imperative to note that the proffered crime scene photo taken from "inside" the house looking out into the "front yard", and the victim is laying by the door is consistent with Vicki Hallman's testimony in that Hallman testified during trial "Actually when I pulled up on the scene and looked at the home I could see the victim laying in front of the door because his body was at the front door [Tr.p.94, L.1-4]; Swarat asked her again, "You say from the outside looking in, the victim's body was visibly?", and Hallman said "Yes". [Tr.p.94, L.17-18]. Now, looking at that proffered photo it is dark outside just as Petitioner testified during trial and the State was allowed to successfully argue against Petitioner's credibility before the jury with the crime scene video. One of the other proffered photos was taken from inside the garage looking into the

backyard, the very door that is at the bottom of the steps where Hutto testified she saw Petitioner standing, and the State used a photo that was taken during "the day". Only the proffered photo clearly shows it is "dark" looking out into the back yard as no lights were on just as Petitioner testified during trial.

During trial Petitioner testified that it was dark out there that night as the porch lights and yard lights were [off] that night and that was a little strange [Tr.p.265, L.19-25]. On cross-examination the prosecution told the jury they could look at the crime scene video and see what it was like out there to decide whether Petitioner was lying [Tr.p.303, L.9-18]. Again one could not video in the dark and the State clearly used artificial lighting, but the proffered crime scene photos refute the State's evidence that was misrepresented to the jury.

The other proffered crime scene photo shows the house from the outside looking back toward the garage and there is an "octangular" window on the side of the house, which is the pool room, keeping mind the State used artificial light to take the picture outside. Then when comparing that photo to the photo taken from inside the house looking into the pool room, on the farthest wall there is that same "octangular" window, and it is clearly visible the window shows it is "dark" outside and no lights just light Petitioner testified to during trial.

Trial counsel testified during PCR that he had all the police reports from the Sheriff's Department, which included the 200 crime scene photos, so counsel could have easily refuted the

State's crime scene video and Donna Hutto's testimony with clear and convincing facts and prevented the State's unjust manipulation of the evidence before the jury. The failure resulted in ineffective assistance of counsel and prosecutorial misconduct.

It would be fundamentally unfair for the State to use 5 or 6 of the 200 crime scene photos and the crime scene video to create an illusion before the jury that misrepresented the facts, and then to deny Petitioner the right to take photos from those same 200 crime photos and present them during PCR to refute the State's evidence would result in a miscarriage of justice.

Every South Carolinian has a vital interest in the administration of justice. This Court has the ultimate responsibility for maintaining judicial integrity and high standards of professional conduct among members of the bar, and for protecting the rights of the accused. The integrity of the entire judicial system is called into question by conduct such as that engaged by the solicitor and investigating officers in this case.

It is therefore in the interest of justice that Petitioner respectfully asks this Court to order the 200 crime scene photos be brought before it and to reconvene while the record is still open to authenticate and allow testimony in support to depict what the photos actually are, including the two (2) sets of photos of Petitioner that cannot be explained away.

Petitioner respectfully prays this Court will reconvene while the record is still open.

Adrienne L. Turner

Respectfully submitted,

131

Randall Tyler
Randall Tyler

CRIME SCENE REPORT
LEXINGTON COUNTY SHERIFFS DEPARTMENT
IDENTIFICATION DIVISION

CASE #: 0252729

OFFENSE: Death/ Homicide

REGION: South

VICTIM: Robert Lewis

LOCATION: 1839 Savannah Highway

- a dresser drawer with what appeared to be items belonging to the victim was on the bed in the master bedroom, the left knob was missing from the drawer, no latents were located
- victim had a large amount of blood around the head
- a small piece of unknown type tissue was located on the wall near the entrance to the master bedroom
- a gunshot residue kit was completed on Donna Marie Hutto and on John Marshall Hutto
- the computer tower, Gateway, was taken as evidence from the office
- the two bloody shoe prints were photographed, and the pieces of carpet were taken as evidence
- crime scene video was completed
- approximately 200 photos were taken of the scene
- sketch was completed of the house
- gunshot wound was located on the victim's left buttock area
- blood drops were located on the top of the overturned coffee table
- possible signs of a struggle in the garage area
- shell casings are 40 caliber S&W Tilton
- outside footwear photographs were completed by Sgt. Collins
- turn around tire tracks were located on Savannah Highway toward Swansea from the I/L and were photographed with B&W film
- three blood drops were located on the floor in the hallway between the front door and the spare bedroom, marked as C & H, three swabs were collected
- blood was located on the floor of the garage near work tables beside the trailer, swab was taken
- blood was also located on a white box which was in the trailer, swab was taken
- a blue flowered hat, identified as belonging to the victim was located on the floor of the garage and taken as evidence
- a pair of glasses were located on the floor of the garage
- a blue baseball hat and a black t-shirt were located on the floor of the living room in front of the chair near the entrance to the pool room and taken as evidence
- the following is the items taken as evidence:
 - 1-shell casing just inside the living room closest to the body
 - 2-shell casing behind small table near item 1
 - 3-shell casing from the chair at the entrance to the pool room
 - 4-overturned bar stool
 - 5-pool stick
 - 6-green glass located in the garage
 - 7-upright bar stool
 - 8-one black in color t-shirt
 - 9-one blue baseball cap
 - 10-one spent round located in the vent behind the loveseat
 - 11-one spent round located in the left arm of the couch cushion
 - 12-one crime scene video
 - 13-one GSR kit on Donna Hutto
 - 14-one GSR kit for John Hutto
 - 15-one piece of blue carpet with bloody shoe print, marked in photos as A
 - 16-one piece of blue carpet with bloody shoe print, marked in photos as B

SEP03.02

089

CONFERRED WITH DETECTIVE/ REQUESTING OFFICER: Sgt. Collins

TIME: 0800

REPORTING OFFICER: Vicki Hallman

DATE: 7/14/02

State of South Carolina
Office of the Solicitor
Eleventh Judicial Circuit

COUNTIES
EDGEFIELD / LEXINGTON
McCORMICK / SALUDA
FAXES: (803) 359-8431 or (803) 359-8255



LEXINGTON COUNTY COURTHOUSE ANNEX
105 SOUTH LAKE DRIVE
LEXINGTON, SOUTH CAROLINA 29072-3480
TELEPHONE: (803) 359-8352

DONALD V. MYERS

Solicitor

June 2, 2003

Dennis Bolt, Esquire
Post Office Box 137
Columbia, SC 29202

VIA FACSIMILE - 256-7399

(Hard copy to follow by mail)

Re: State v. Randy Tyler

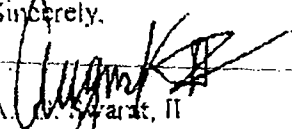
Dear Mr. Bolt:

As we are soon approaching the trial date on Mr. Tyler's case, I wanted to give you the opportunity to view the copies of the photographs, crime scene videotape and other potential items of evidence, which I have in my possession. Also, I would like to go through the documentation in this case to make sure you have been provided with all materials under Brady v. Maryland and Rule 5. The items collected by law enforcement are in the possession of the Sheriff's Department.

In addition, the Grand Jury will be presented with amended indictments and an additional indictment for criminal conspiracy on Thursday, June 5, 2003. I was unaware of Mr. Tyler's prior burglary convictions until I received the certified convictions from the State of Michigan. After reviewing those convictions, I have amended his burglary first indictment to include his prior burglary convictions as an element of burglary in the first degree.

If you have any questions or would like to schedule a time to view the discovery items mentioned above, please contact me at 359-8596.

Sincerely,


A. V. Stewart, II
Senior Assistant Solicitor

AGS/tkg

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

C/A No. 2007-CP-32-0907

Randall Tyler -- Petitioner,

-Vs-

State of South Carolina -- Respondent,

CERTIFICATE OF SERVICE

The undersigned, Petitioner Randall Tyler hereby certifies he has served true and correct copies of the enclosed:

(1). Underlying facts in support of Petitioner's request to reconvene, with attachments to the persons whose addresses appear below by placing the aforesaid in properly addressed, first-class postage affixed envelopes and placed in the U.S. Mail this 20th day of February 2012.

Judge Young's Law Clerk
Honorable Judge Young
205 East Main St., Suite 146
Lexington, SC. 29072-3494

Hon. Beth Carriag
Clerk of Court for Lexington County
205 East Main St., Suite 146
Lexington, SC. 29072

Office of Attorney General
Ms. Kaelon E. May
P.O. Box 11549
Columbia, SC. 29211
Adrienne Turner, Esq.
Attorney at Law
P.O. Box 11844
Columbia, SC. 29211

Respectfully Submitted,

[Signature]
Randall Tyler
SCDC# 294029
Lieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

[Signature]
SWORN TO AND SUBSCRIBED BEFORE ME
This 21st day of February, 2012

[Signature]
NOTARY PUBLIC

My Comm. Expires *1/24/2016*

CERTIFICATE OF SERVICE

C/A No. 2007-CP-32-0907

Randall Tyler -- Petitioner,

-V-

State of South Carolina -- Respondent,

The undersigned hereby certifies he has served counsel of record a true and correct copy of the Formal Request to endorse the Motion to Recovene while the Record is still open; Underlying facts in support and Motion to include Sled and Police Reports, by placing the aforesaid request in a properly addressed, first-class postage affixed envelope and placed in the U.S. Mail this 2nd day of April 2012.

Party Served:

Ms. Adrienne Turner, Esq.
Attorney at Law
P.O. Box 11844
Columbia, SC. 29211

Respectfully Submitted,

/s/ Randall Tyler
Randall Tyler
SCDC# 294029
Kieber Corr. Inst.
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC. 29472

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 2ND DAY OF APRIL 2012

[Signature]
NOTARY PUBLIC

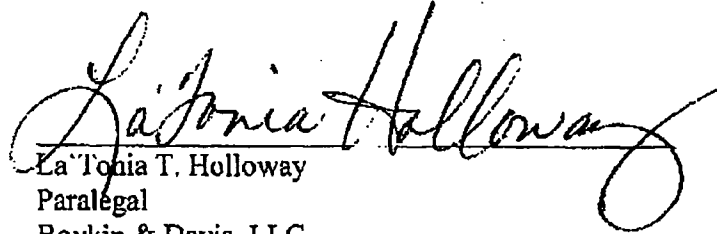
MY COMM. EXPIRES 1/24/2018

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing, Motion, has been served upon the following parties by placing a copy of the same in the United States mail, first class postage prepaid, addressed to their office as shown below this 16th day of April, 2012.

Kaclon E. May, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Randall S. Tyler SCDC # 294029
Lieber Correctional Institution
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC 29472



La'Tonia T. Holloway
Paralegal
Boykin & Davis, LLC
220 Stoneridge Drive, Suite 100
P.O. Box 11844 (29211)
Columbia, SC 29210

FILED
2012 APR 16 P 3:21
JIM A. BRYANT
CLERK OF COURT
COLUMBIA, SC

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

ELEVENTH JUDICIAL CIRCUIT

CASE NO.: 2007-CP-32-00907

2012 APR 16 P 3:20

Randall Scott Tyler

MOTION AND ORDER INFORMATION

Plaintiff,

FORM AND COVERSHEET

vs.

The State of South Carolina

Defendant.

Plaintiff's Attorney:

Kaleon E. May, Bar No. _____

Address:

P.O. Box 11549, Columbia, SC 29211

Phone: _____ Fax: _____

E-mail: _____ Other: _____

Defendant's Attorney:

Adrianne L. Turner, Bar No. 06840

Address:

220 Stoneridge Drive, Suite 100, Columbia, SC 29210

Phone: 803-254-0707 Fax 803-254-5609

E-mail: aturner@boykinlawsc.com Other: _____

☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____

Estimated Time Needed: _____

Court Reporter Needed: ☐ YES ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

4/16/12

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$ _____☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support☐ Domestic Abuse or Abuse and Neglect☐ Indigent Status ☐ State Agency v. Indigent Party☐ Sexually Violent Predator Act ☒ Post-Conviction Relief☐ Motion for Stay in Bankruptcy☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____☐ CONTESTED - AMOUNT DUE: \$ _____

BOYKIN & DAVIS, LLC

Attorneys and Counselors at Law.

220 STONERIDGE DRIVE, SUITE 100
COLUMBIA, SOUTH CAROLINA 29210POST OFFICE BOX 11844
COLUMBIA, SOUTH CAROLINA 29207

aturner@boykinlawsc.com

TELEPHONE: 803-254-0707
FACSIMILE: 803-254-5609

CHARLES J. BOYKIN*
KENNETH A. DAVIS
ADRIANNE L. TURNER
DEIDRE D. LAWS
KIMBERLY A. GERTNER
REAGAN S. FLEMING
SHAWN D. EUBANKS
COURTNEY M. LASTER

PETER E. KEUP*
OF COUNSEL

* CERTIFIED CIVIL ARBITRATOR AND MEDIATOR
† ALSO ADMITTED IN CALIFORNIA

April 16, 2012

APR 16 P 3:20

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC**VIA HAND DELIVERY**

The Honorable Beth Carrigg
Lexington County Clerk of Court
205 E. Main Street
Lexington, South Carolina 29072

Re: Randall Tyler v. State of South Carolina
C.A. No.: 2007-CP-32-0907

Dear Ms. Carrigg:

At the request of Petitioner, Randall Tyler, I have endorsed and enclosed the "Request to Reconvene and Motion to include Sled and Police Reports," which Mr. Tyler prepared and previously submitted without the signature of counsel. Please advise if Mr. Tyler needs to do anything further in order to comply with the Court's directives regarding appropriate filing of motions.

Thank you for your consideration and attention to this matter.

Sincerely,



Adrienne L. Turner

/lth

Cc: Kaelon E. May, Esq. (w/encl.)
Randall Tyler (w/o encl.)

ORIGINALSTATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

) IN THE COURT OF COMMON PLEAS

) 2007-CP-32-907

) Randall S. Tyler, # 294029,

) Applicant,

) **ORDER OF DISMISSAL**

) v.

) State of South Carolina,

) Respondent.
_____)2012 MAY 17 AM 11:33
FILED
CLERK OF COURTS
LEXINGTON COUNTY
SOUTH CAROLINA

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed March 16, 2007. Respondent made its Return on or about June 14, 2007. An evidentiary hearing into the matter was convened on February 1, 2012 at the Lexington County Courthouse. The Applicant was present at the hearing and was represented by Adrienne L. Turner, Esquire. The Respondent was represented by Kaelon E. May of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Additionally, Applicant offered the testimony of Vickie Hallman (Ms. Hallman) and August Swarat, Esquire (Mr. Swarat). The State offered the testimony of Dennis bolt, Esquire (Mr. Bolt) Applicant's trial counsel. This Court also had before it the records of the Lexington County Clerk of Court, the transcript of the proceedings against the Applicant, the Applicant's records from the South Carolina Department of Corrections, and the records from Applicant's prior appeal proceedings.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. Applicant was indicted at the June 2003 term of the Lexington County Grand Jury for criminal conspiracy (03-GS-32-2264), burglary-

1st degree (03-GS-32-2265) and murder (03-GS-32-226). Dennis Bolt, Esquire, represented him. On June 12, 2003. Applicant underwent trial, pursuant to which he was found guilty. He was sentenced by the Honorable Marc H. Westbrook to confinement for life for murder, life for burglary and five (5) years for criminal conspiracy.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Tyler, Op. No. 05-UP-274 (S.C. Ct. App. filed April 19, 2005). Applicant subsequently filed a Petition for Rehearing on July 6, 2005. The South Carolina Court of Appeals denied Applicant's motion by order dated August 29, 2005. Applicant subsequently filed a Petition for Writ of Certiorari in the original jurisdiction of the South Carolina Supreme Court, which was denied by order dated January 4, 2007.

In his current application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel

- a. failure to object to the highly prejudicial opinion testimony from a state's witness, who had not been qualified as an expert by the trial court;
- b. failure to object to the prosecution soliciting highly prejudicial opinion testimony from a state's witness who had not been qualified as an expert by the trial court;
- c. failure to object to the prosecution impeaching Applicant's exculpatory version of events that were told for the first time at trial that resulted in the prosecution crossing the Dovle-Ohio line that resulted in a denial of due process that denied Applicant his right to a fair trial;
- d. failure to object to the prosecutions improper closing that resulted in misquotes of law, lying to the jury about rules, and deliberately placing highly prejudicial remarks of misquoted evidence that resulted in prosecutorial misconduct and denied Applicant his right to a fair trial;

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CLERK OF COURT
LEXINGTON, SC

e. failure to object to the solicitor's improper closing comments on malice that bolstered the state's case;

f. failure to object to the trial court's malice instructions that in effect shifted the burden of proof;

g. failure to impeach state's witness, Donna Hutto, with her three prior inconsistent statements that contradicted her testimony given during trial and as a result denied Applicant his right to effective cross-examination;

h. failure to introduce Donna Hutto's three prior inconsistent statements into evidence that contradicted her testimony given during trial;

i. failure to object to prosecution pitting Applicant against alleged co-defendant who was not present during the trial, and thus the alleged statements of Travis Harsey could not be challenged;

j. failure to do any pretrial investigation, including, but not limited to SLED reports;

k. failure to introduce a non-testifying co-defendant Travis Harsey's written and complete oral statements into evidence when the state elicited only portions of Harsey's oral statements made to Detective Frier.

2. Denial of Due Process
3. Prosecutorial Misconduct

II. SUMMARY OF TESTIMONY AND EVIDENCE PRESENTED AT THE PCR EVIDENTIARY HEARING

Ms. Hallman's Testimony

At the PCR hearing Ms. Hallman testified that at the time she testified at the Applicant's trial she was employed by the Lexington County Sheriff's Office as a Senior Investigator. Ms. Hallman testified that she took pictures of the Applicant's hands, that the photographs she took were entered into evidence at the Applicant's trial, and that the photographs entered at trial were colored. She

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testified that she took the photographs labeled State's exhibit 18, 19, and 20. Ms. Hallman testified that she photographed the Applicant's hands only one time. Ms. Hallman testified that she was not qualified as an expert at the Applicant's trial. Ms. Hallman testified that it appeared the form in the gunshot residue kit for the subject John Marshall Hutto was not fully completed and that the form is folded into the kit for the trace department at SLED.

Mr. Swarat's Testimony

At the PCR hearing Mr. Swarat testified that he was the lead prosecutor for Applicant's case and that Mr. Marion Moses assisted him in prosecuting the Applicant. Mr. Swarat testified that the prosecution used the photographs taken at the scene and the blood left at the scene in trying to determine the source of the blood. He testified that the pictures taken of the Applicant's hands were taken nine to ten days after the homicide. Mr. Swarat testified that another exhibit that went with the color photographs labeled exhibits 3 and 5 were the ceiling tiles that had knuckle marks. Mr. Swarat testified that exhibits 1 and 2 showed the same abrasions on the Applicant's hands but that these photographs were not the same as the other photographs taken of Applicant's hands.

Mr. Swarat testified that Donna Hutto may have given statements to the police but that he could not recall. He testified that Donna Hutto was questioned about what took place the night of the incident, that he could not recall why Donna Hutto gave a second statement, and that Donna Hutto heard the argument between the victim and Applicant, that she ran to her brother's house and that Hutto's brother returned with her to the scene with a gun. Mr. Swarat testified that Donna Hutto had an issue with telling the police that her brother brought a firearm back to the scene but that this was not an issue with the facts of the case.

Mr. Swarat testified that with regard to the statement made by the state in closing that, "rules prevented the state from having the co-defendants tried together," (Tr. p.352, lines 5-10) he may have been referring to an evidentiary issue; that the two co-defendants were not tried together because they both gave statements pointing the finger at each other and that this was a Bruton issue. He testified that trying the two co-defendants together would have prevented the prosecution from going into the statements made by each co-defendant and that it was a strategic decision not to try the codefendant together. Mr. Swarat testified that Applicant's co-defendant gave two statements to police.

Applicant's Testimony

At the PCR hearing Applicant testified that with regard to the black and white photographs of his hands, that Applicant remembered when these photographs were taken, that they were not taken ten days after the homicide, but that they were taken on the day Applicant was arrested referring to Applicant's exhibit 3. Applicant testified that trial counsel should have objected to these photographs at trial. Applicant testified that trial counsel failed to object to Ms. Hallman's testimony at trial based on that she was not qualified as an expert. Applicant testified that Ms. Hallman's testimony at trial contained forty-eight references to "blood," and that this testimony was prejudicial.

Applicant testified that trial counsel failed to object based on Doyle v. Ohio and that Applicant has invoked his right to remain silent. Applicant testified that his co-defendant's entire statement given to police was not entered into evidence at trial and that only an excerpt of the statement was entered into evidence. Applicant testified that the state made improper comments concerning "malice" in the closing arguments (Tr. p.329), and that due to the fact that the jury was aware that Applicant either dealt drugs or engaged in drug use that the jury could conclude there was

an unlawful act; and that Applicant was not trial for any drug charges. Applicant testified that trial counsel failed to object to the state's improper comments on malice during closing arguments. Applicant testified that trial counsel in his opening statement to the jury referenced the witnesses as having given multiple statements; that Donna Hutto was one of these witnesses; that trial counsel promised the jury these statements and then did not deliver; and that trial counsel did not cross-examine Donna Hutto and impeach her using her own statement. Applicant testified that Hutto's third statement lays out a timeline that does not match one of her previous statements and this would have been critical for the jury to hear.

Applicant testified that he met with trial counsel three to four times prior to trial, that counsel said Applicant's co-defendant would be at the trial but the co-defendant was not present at Applicant's trial. Applicant testified that he wrote letters to the South Carolina Bar Association and the presiding Judge prior to trial concerning counsel's performance, that Applicant never received a preliminary hearing, and that counsel did not prepare a defense. Applicant testified that SLED documents were not entered at trial, that the ballistics reports were inconsistent with each other, and that counsel failed to inform the jury that Hutto's brother had a gun. Applicant testified that counsel should have interviewed Hutto's brother, that Hutto's brother gave two inconsistent statements, and that counsel should have contacted Debra Harsey, who was the mother of Applicant's co-defendant. Applicant testified that his co-defendant's wife and brother all gave the police multiple statements and that counsel failed to interview these people. Applicant testified that counsel failed to interview James Williams, that counsel failed to obtain and/or review James Williams' statement and the tape of James Williams' statement.

12/7/17

Applicant testified that counsel failed to introduce his co-defendant's entire statement into evidence at trial. Applicant testified that trial counsel objected to the hearsay testimony. Applicant testified that his co-defendant never said, "hid," as reflected in his statement, and that the jury needed Harsey's entire statement to see that Harsey never hid the car at Applicant's direction. Applicant testified that Harsey's statement includes information about his brother and how the gun was disposed of, that the statement would have refuted the state's theory, and that in his statement Harsey denied the conspiracy.

Mr. Bolt's Testimony

At the PCR hearing trial counsel testified that he has practiced law for thirty-eight years, that he started out practicing law as a prosecutor, and that sixty percent of his practice was in the area of criminal law. Counsel testified that he was the second attorney on the Applicant's case and that he was retained to represent Applicant. Counsel testified that he met with Applicant at least eight to ten times if not more; that counsel discussed with Applicant the indictments, the charges, the elements of the offenses Applicant was charged with; the possible punishments for the charges; and the Applicant's version of the events. Counsel testified that the problem with Applicant's initial statement to the police, in which Applicant told the police to look at his brother, was that Applicant made this statement on his own volition as he was leaving and being escorted by the police.

Counsel testified that Applicant's blood and DNA was found at the murder scene, that Applicant informed counsel the police planted said blood evidence, and that counsel explained to Applicant the planting of evidence could not be used as a defense for Applicant. Counsel testified that Applicant was offered a plea to manslaughter but could not recall the term of years offered. Counsel testified that he explained to Applicant, Applicant's right to testify at trial and not testify,

that they could argue mere presence at trial, and that ultimately counsel decided upon the best defense which was presented at trial. Counsel testified that he reviewed the SLED documents, that three shell casings were found and traced to the pistol, that the bullets were fragmented, and that counsel received all the discovery materials from the state. Counsel testified that he reviewed all the discovery materials with Applicant, that Applicant provided counsel with potential witnesses, but that there were no witnesses who could vouch for the Applicant's whereabouts when the victim was killed.

Counsel testified that he did speak with James Williams, that the defense presented was mere presence and that there was a discrepancy in the time frame. Counsel testified that he spoke with the Applicant's family in preparation for trial, that counsel reviewed the ballistics report, but that counsel could not recall whether he reviewed the ballistics report with Applicant. Counsel testified that he had sufficient time to prepare for Applicant's trial.

III. APPLICABLE LAW

In a post-conviction relief action, Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, Id.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered

adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, Id. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, *citing* Strickland. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, the exhibits introduced at the PCR hearing, and the legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

1. Ineffective Assistance of Counsel

a. & b. Failure to object to prejudicial opinion testimony from a state's witness who had not been qualified as an expert by the trial court

Applicant asserts that trial counsel was ineffective for failing to object to the state's solicitation of blood testimony by Vickie Hallman, who was not allowed to give expert witness testimony without having been qualified as an expert by the trial court. At the PCR hearing, Applicant testified that Ms. Hallman's trial testimony included testimony concerning blood spatter, transferred blood, and ninety-degree angled blood spatter. Mr. Bolt testified that he did not object to Ms. Hallman's trial testimony concerning blood spatter because Ms. Hallman was a forensic scientist and testimony concerning blood spatter was proper from a forensic scientist. Our courts are understandably wary of second-guessing defense counsel's trial tactics. Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). This Court finds that Mr. Bolt articulated valid strategic reasons for not objecting to Ms. Hallman's trial testimony concerning blood spatter. This Court accepts Mr. Bolt's reasoning as to why he did not object. Furthermore, there has been no showing by the Applicant that the outcome of his trial would have been different if this objection had been made based upon his cross-examination and evidence adduced at trial. This Court finds that Applicant has failed to show that he was prejudiced by trial counsel's failure to object. Therefore, this allegation is denied and dismissed.

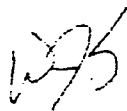
c. Failure to object based on Doyle v. Ohio

Applicant asserts that trial counsel was ineffective for failing to object to the prosecution impeaching Applicant's exculpatory version of events that were told for the first time at trial that resulted in the prosecution crossing the Doyle-Ohio line that resulted in a denial of due process that denied Applicant his right to a fair trial. Applicant directs this Court's attention to pages 299-300 of

WJH

the trial transcript. In Doyle v. Ohio, 426 U.S. 610 (1976), the Supreme Court held that the prosecution could not attempt to impeach a defendant's exculpatory story, told for the time at trial, by cross-examining him about his failure to the story after receiving Miranda warnings. However, the Court also reasoned that this prohibition did not apply in situations where the defendant's post-arrest silence was not the result of Miranda warnings. Miranda v. Arizona, 384 U.S. 436 (1966). The Constitution does not prohibit the use for impeachment purposes a defendant's silence prior to arrest or after arrest if no Miranda warning were given. Such silence is probative and does not rest in any implied assurances by law enforcement authorities that it will carry no penalty. Brecht v. Abrahamson, 507 U.S. 619 (1993). Mr. Bolt testified that he did not object because Applicant invoked his right to remain silent, but that Applicant then waived his right to remain silent by way of Applicant's self-initiated comment about his brother. Mr. Bolt also testified that Applicant waived Miranda with attorney Simmons present.

Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). This Court finds that Mr. Bolt articulated valid strategic reasons for not objecting based on a violation of Doyle v. Ohio. This Court accepts Mr. Bolt's reasoning as to why he did not object. Furthermore, there has been no showing by the Applicant that the outcome of his trial would have been different if this objection had been made based upon his cross-examination and evidence adduced at trial. This Court finds that Applicant has failed to show that he was prejudiced by trial counsel's failure to object. Therefore, this allegation is denied and dismissed.



d. & e. Failure to object to solicitor's improper closing comments

Applicant asserts that trial counsel was ineffective for failing to object to the prosecution's improper closing that resulted in misquotes of law, lying to the jury about rules, and making highly prejudicial remarks of misquoted evidence. Applicant directs this Court's attention to pages 353-365 of the trial transcript. Mr. Bolt testified that in regards to Applicant's allegation that the solicitor encouraged the jury violate the 'Golden rule,' that he did not recall objecting to the state's closing, that he usually objects to any improper closing arguments, and that he probably did not object because he did not find the statement objectionable. Mr. Bolt testified that he did not object to the 'rules' comment by the solicitor (Tr. p.353, lines5-15) because Applicant's defense was to put Applicant's absent co-defendant, Travis Harsey, on trial; to establish the gun was Harsey's; and rely on the fact that the state would have to explain why Harsey was not at the Applicant's trial. Mr. Bolt testified that he did not object to the solicitor's statement that "finding Applicant innocent would be an insult to common sense" (Tr. p.356, lines14-20), because he did not find the statement objectionable and that there was no ground on which to base an objection. Additionally, Mr. Bolt testified that he did not object to what Applicant alleged to be a misquote of the law when the solicitor told the jury they have would have to believe everything that Applicant said to find Applicant not guilty, because Mr. Bolt did not find the comment objectionable. Mr. Bolt testified that sometimes whether to object during closing arguments is a matter of trial strategy and that he does not typically shy away from objecting during closing arguments when it is proper. Counsel further testified that he did not object to the solicitor's closing argument concerning "malice" (Tr p.329) because there was no basis on which to object. Counsel testified that the statement did not shift the burden of proof, that the intention to commit an illegal act had nothing to do with drugs as Applicant



was not on trial for any drug charges, and that Applicant was mistaken as to what the law on malice actually means. Counsel testified explaining that the solicitor never specified the 'unlawful' or 'intentional' act in his comments on malice and that the state is not required to specify the unlawful act they are referring to.

This Court finds that the solicitor's closing arguments must be viewed in the context of the entire record. McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). While the State's closing arguments must be confined to evidence in the record and the reasonable inferences that may be drawn from the evidence, Copeland, 321 S.C. 318, 468 S.E.2d 620 (1996); to be entitled to a new trial for improper closing arguments Applicant must show "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). After reviewing the entire record, this Court does not find any comments by the solicitor so infected the trial that a new trial is warranted. The solicitor's arguments were proper comments on the facts but, even if improper, the arguments did not "so infect the trial with unfairness as to make the resulting conviction a denial of due process." See Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). This Court is not convinced that the solicitor's arguments even reach the level of being improper, but certainly there is no evidence that Applicant was prejudiced. Additionally, this Court does not find that Mr. Bolt was ineffective for failing to object. He provided a rational explanation as to why he did not object and this Court accepts Mr. Bolt's reasoning as to why he did not object. Therefore, these allegations are denied and dismissed.

f. Failure to object to the trial court's malice instruction

Applicant asserts that trial counsel was ineffective for failing to object to the trial court's malice instruction that in effect shifted the burden of proof. Applicant directs this Court's attention to

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pages 374-375 of the trial transcript. Counsel testified that he did not object to the court's malice instruction because there was nothing objectionable about the instruction. Counsel testified that criminal intent was charged, to the extent malice incorporates intent. The South Carolina Court of Appeals held that evidence that Applicant told James Williams Applicant was mad at the victim and that Applicant and Harsey conversed in low tones in the back room with a gun pointed to the presence of malice. State v. Tyler, Op. No. 05-UP-274 (S.C. Ct. App. filed April 19, 2005). The Court of Appeals further held that the evidence that Applicant wore a mask and ordered the victim into the house, and that Applicant's blood was found on the ceiling tiles tended to show motive and a preconceived plan. Id. The Court of Appeals found that there was overwhelming evidence of Applicant's guilt as to all three charges. Id.

"In reviewing jury charges for error, we must consider the court's jury charge as a whole in light of the evidence and issues presented at trial." State v. Adkins, 353 S.C. 312, 318, 577 S.E.2d 460, 463 (Ct.App.2003). "A jury charge is correct if, when the charge is read as whole, it contains the correct definition and adequately covers the law." Id. at 318, 577 S.E.2d at 464. A jury charge which is substantially correct and covers the law does not require reversal. State v. Foust, 325 S.C. 12, 479 S.E.2d 50 (1996). "[T]he trial court is required to charge only the current and correct law of South Carolina." Sheppard v. State, 357 S.C. 646, 665, 594 S.E.2d 462, 472 (2004). "The law to be charged must be determined from the evidence presented at trial." State v. Knoten, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). "The substance of the law is what must be charged to the jury, not any particular verbiage." Adkins, 353 S.C. at 318-19, 577 S.E.2d at 464. If a jury charge given at trial is a correct statement of law, trial counsel is not ineffective for failing to object. Toomer v. State, 339 S.C. 434, 529 S.E.2d 719 (2000). This Court finds that trial counsel articulated valid

reasons for not objecting to the trial court's instruction on malice. This Court agrees with trial counsel and finds that the trial court's instruction on malice contained the correct definition and adequately covered the law. This Court finds that trial counsel was not ineffective for failing to object to the trial court's instruction on malice; therefore, this allegation is denied and dismissed.

g. & h. Failure to utilize Donna Hutto's statements at trial

Applicant asserts that trial counsel was ineffective for failure to impeach a state's witness, Donna Hutto, with her three prior inconsistent statements that contradicted her testimony given during trial and as a result denied Applicant his right to effective cross-examination. Applicant also asserts trial counsel was ineffective for failing to introduce Hutto's statements into evidence. Counsel testified that Donna Hutto's statements were very incriminating to Applicant and contained a lot of incriminating information concerning Applicant, and that counsel did not want to enter Hutto's statements into evidence because they did not have a high impeachment value. Counsel testified that he could not introduce Hutto's statements until she testified and that Hutto was a very compelling witness for the state. Counsel testified that he discussed the feasibility of what Hutto could see through the house with Applicant, that Applicant claimed Hutto could not see what she claimed to see from where she claimed to have stood, and that counsel did not visit the victim's house to stand in the same place as Hutto did. Counsel testified that Hutto's testimony was that she was looking out the kitchen window when she saw Applicant walking into the garage, that Hutto identified Applicant's voice, and that Applicant had a friendly ongoing relationship with Hutto and the victim. Counsel testified that Applicant claimed he was in the garage, so it would have been hard to incorporate Applicant's defense with trying to establish that Applicant was not in the garage, and that this strategy would have given Applicant no credibility with the jury. Additionally, counsel



testified that with regards to his opening statement (Tr. p.57, lines1-9), this was not a promise made by counsel to the jury that the defense would introduce statements from the witnesses.

Strickland requires that trial counsel be given leeway to make reasonable strategic decisions. No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. Id., 466 U.S. 668. Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). *See also* Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). This Court finds that trial counsel articulated valid strategic reasons for not introducing Hutto's statements into evidence. This court accepts counsel's reasoning and finds that there has been no showing by the Applicant that the outcome of his trial would have been different if counsel had introduced the statements into evidence. This Court finds that Applicant has failed to show counsel's performance in this respect was deficient and any resulting prejudice; therefore, this allegation is denied and dismissed.

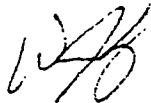
As to Applicant's assertion that counsel was ineffective for failing to impeach Hutto with her statements, this Court finds that Applicant failed to meet his burden of proof. The nature and scope of cross-examination is inherently a matter of trial tactics. United States v. Nersesian, 824 F.2d 1294, 1321 (2nd Cir. 1987). Trial counsel testified that he was not going to beat up on Hutto (the victim's widow) in front of the jury and that Hutto's statements did not have a high impeachment value. This Court finds that Applicant has not shown that trial counsel was deficient in that choice of tactics or any resulting prejudice. Accordingly, the Applicant has not shown that a different approach

to cross-examination would have been beneficial to the defense; therefore, this allegation is denied and dismissed.

i. Failure to object to prosecution pitting Applicant against co-defendant

Applicant asserts that trial counsel was ineffective for failing to object to the prosecution's pitting of Applicant against his alleged co-defendant, who was not present during the trial, and thus the alleged statements of Travis Harsey could not be challenged. Applicant directs this Court's attention to page 303, lines 24-25 of the transcript. Counsel testified that 'pitting' has to do with witnesses commenting on the veracity of another witness, a witness versus a witness, and that 'pitting' is not applicable to co-defendants against each other. Counsel testified that he did not object based on improper pitting of co-defendants, one of whom was not present, because that was not a proper objection. It is improper to cross-examine in a way that requires a witness to attack another witness's credibility. Burgess v. State, 329 S.C. 88, 495 S.E.2d 445 (1998) ("No matter how a question is worded, anytime a solicitor asks a defendant to comment on the truthfulness or explain the testimony of an adverse witness, the defendant is in effect being pitted against the adverse witness. This kind of argumentative questioning is improper.")

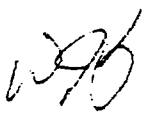
Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). This Court finds that trial counsel articulated valid strategic reasons for not objecting to the solicitor's cross-examination of Applicant on the grounds of improper pitting of witnesses. The record reflects that Travis Harsey was not a witness at Applicant's trial. This Court accepts counsel's reasoning and finds that there has been no showing by the



Applicant that the outcome of his trial would have been different if counsel had made such an objection. This Court finds that Applicant has failed to show counsel's performance was deficient and any resulting prejudice; therefore, this allegation is denied and dismissed.

j. Failure to conduct pre-trial investigation

Applicant asserts that trial counsel was ineffective for failing to do any pre-trial investigation, including but not limited to SLED reports. At the PCR hearing Applicant alleged that counsel did not prepare a defense and that the SLED documents were not entered into evidence at trial. Applicant also alleged that counsel failed to contact and interview the following individuals: Johnny Hutto, Travis Harsey's wife, Sammy Harsey, James Williams, and Travis Harsey's mother. Counsel testified that he met with Applicant eight to ten times prior to trial and that counsel discussed with Applicant the charges, discovery materials, and possible defenses. Counsel testified that he received and reviewed the SLED documents prior to trial. Additionally, Counsel testified that he received and reviewed all the statements made by Travis Harsey's wife, Sammy Harsey (Travis Harsey's brother) and James Williams, and that these individuals were represented by attorneys. Counsel testified that he did not interview Hutto's brother, but that he did review his statement. Counsel testified that none of the Harsey's statements were beneficial to Applicant's defense. Counsel testified that Applicant never asked counsel about matching Applicant's hands to the knuckle impressions found in the ceiling tiles. Counsel testified that he interviewed the Detectives who investigated Applicant's case and learned that someone had discovered money at the victim's house in the ceiling, that someone tried to get the ceiling tiles loose to obtain the money, and that this resulted in the knuckle marks in the ceiling tiles. Counsel testified that he asked Applicant about the blood found on the ceiling tiles, that Applicant told counsel the police must have planted his blood, and that Applicant denied trying



to steal the money from the ceiling.

"Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). To establish counsel failed to adequately prepare for trial. Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998). Here, the Applicant could not point to any specific matters or evidence that counsel failed to discover that would have been likely to have any outcome more favorable to the Applicant.

The Applicant did not produce any witnesses or offer any other evidence from which this Court could conclude that the outcome of the case would likely have been different, had that evidence been developed. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). The Applicant presented no such witness at the PCR hearing. This Court finds that Applicant has failed to show counsel's performance was deficient and any resulting prejudice; therefore, this allegation is denied and dismissed.

k. Failure to introduce Applicant's co-defendant's full statement into evidence

Applicant asserts that trial counsel was ineffective for failing to introduce a non-testifying co-

defendant's, Travis Harsey's, complete written and oral statements into evidence when the state elicited only portions of Harsey's oral statements made to Detective Frier. Counsel testified that he did not introduce Travis Harsey's entire statement into evidence because it reflected that Applicant was mad at the victim, that Applicant had paranoia regarding the victim's relationship with Applicant's wife, and that Applicant had the gun. Counsel also testified that Travis Harsey stated in his second statements that "he lied" and that while it is disparaging to lie counsel could not imagine anything more incriminating to Applicant than Travis Harsey's statement. Counsel testified that he did object to the state's 'cherry-picking' of lines from Harsey's statement; however the trial court overruled his objection. Counsel testified that with regard to Harsey's initial statement dated July 16, 2002, in which Harsey said "told Applicant come over if he wanted \$2,000," that if the state's theory was that Applicant needed money then the statement would have been somewhat relevant; however counsel testified that this was not the state's theory. Counsel testified that he explored the feasibility of calling Applicant's co-defendant, Travis Harsey to testify, but that counsel believed Harsey was going to stick to his statement and that Harsey's testimony was going to be consistent with his statement.

Our courts are understandably wary of second-guessing defense counsel's trial tactics. Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). This Court has reviewed the statements of Travis Harsey presented by Applicant at the PCR hearing. This Court agrees with counsel in that Travis Harsey's statements were very damaging and incriminating to Applicant. Trial counsel articulated valid strategic reasons

for not entering the statements into evidence at trial. The Applicant has not shown that counsel was deficient in that choice of tactics. This Court finds that there has been no showing by the Applicant that the outcome of his trial would have been different if counsel had introduced the statements into evidence. This Court finds that Applicant has failed to show any resulting prejudice; therefore, this allegation is denied and dismissed.

2. Prosecutorial Misconduct

The Applicant has alleged prosecutorial misconduct in the following instances: by taking part of the investigatory apparatus; by making improper comments during closing arguments; and Brady violations. It is Applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). This Court has already found that the solicitor's comments during closing argument were not improper and certainly did not so infect the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). As to Applicant's allegation of a Brady violation, this Court finds this allegation is without merit. Trial counsel testified that he did not have any issues or problems obtaining all the discovery materials from the state. The Applicant provided no evidence or testimony showing that the state withheld any evidence from the defense in this case at the PCR hearing. In evaluating post-trial Brady claims, the Applicant must show that (1) the prosecution suppressed evidence, (2) the evidence would have been favorable to the accused, and (3) the suppressed evidence is material. United States v. Wolf, 839 F.2d 1387 (10th Cir. 1988). A Brady violation does not warrant reversal if the evidence is merely cumulative or impeaching. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993). "Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of

the proceeding would have been different." Id., 434 S.E.2d at 268. Accordingly, the Applicant has failed to meet his burden of proof, therefore this allegation is denied and dismissed.

All Other Claims

Except as discussed above, this Court finds that the Applicant affirmatively waived the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BML Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

V. CONCLUSION

Based on all the forgoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post conviction relief. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

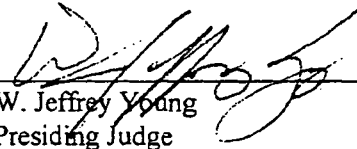
This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. *See* Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the

obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of Respondent

AND IT IS SO ORDERED this 4 day of May, 2012.


W. Jeffrey Young
Presiding Judge

Sumter, South Carolina

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STATE OF SOUTH CAROLINA 2012 JUN -6 PM 12:12
COUNTY OF LEXINGTON

Randall Scott Tyler,
Petitioner,

vs.

The State of South Carolina
Defendant.

CLERK OF COURT
LEXINGTON SC

IN THE COURT OF COMMON PLEAS
OF THE ELEVENTH JUDICIAL CIRCUIT

2007-CP-32-60907
**MOTION FOR RECONSIDERATION
AND MOTION TO ARREST
JUDGMENT/HOLD ORDER IN
ABEYANCE PENDING RECEIPT OF
TRANSCRIPT**

TO: KALEON E. MAY, ATTORNEY FOR DEFENDANT

YOU WILL PLEASE TAKE NOTICE that Petitioner, pursuant to applicable case and statutory law, claimant hereby moves for an order arresting the Courts Order of Dismissal and holding issuance of order in abeyance pending Petitioner's receipt of a transcription of the February 1, 2012 hearing, which Petitioner asserts is vital to his ability to properly prepare a detailed Rule 59(e) motion setting forth all of Petitioner's allegations of deficiencies and or errors in the Order of Dismissal. Petitioner would request that a transcript of the proceedings be provided to him for purposes of preparing a detailed 59(e) motion at no cost to him, inasmuch as he is incarcerated and without means of obtaining of the transcription.

Alternatively, pursuant to Rule 59(e), SCRCP, Petitioner hereby moves for reconsideration of the Court's order dismissing Petitioner's Post Conviction Relief Action for the following reasons in addition to any other reasons which may become evident upon receipt of the requested transcription of the Proceedings:

1. The trial court erred in failing to find that Petitioner's trial counsel rendered ineffective assistant of counsel in failing to object to, and in fact actually *eliciting* trial testimony of prior crimes, wrongs and/or bad acts for which the Petitioner was not on trial and with which the Petitioner had not been charged. Specifically, Petitioner's

trial counsel injected Petitioner's involvement with drugs through cross-examination of State's witness Donna Hutto (Tr. 187), and effectively injected or "opened the door" to the State's theory of robbery through trial counsel's own direct examination of Petitioner (Tr. 259 L. 24-25). Trial counsel's failure to render effective assistance of counsel in this regard was particularly egregious and highly prejudicial inasmuch as trial counsel effectively articulated motive" and "intent for Petitioner to have harmed the victim through introduction of unadjudicated offenses. Further compounding the prejudicial effect of trial counsel's ineffective assistance in this respect, counsel also failed to object to the State's mischaracterization during closing arguments of the testimony of James Williams, to include allegations that Petitioner indicated to Williams that he was angry with the victim over drugs despite the fact that Williams never offered such testimony. As well, trial counsel failed to object to, or seek clarification of, the trial court's jury charge on prior bad acts, which failure allowed the jury to consider the aforementioned uncharged acts as evidence of motive and intent to commit murder.¹

2. Petitioner further respectfully moves this Court, pursuant to Rule 59(e), SCRCP, to reconsider the court's ruling from the bench that certain photographs, offered by Petitioner as crime scene photos, were inadmissible because they could not be authenticated. At the hearing on this matter, Petitioner called Vikki Hallman to testify as to the authenticity of the crime scene photos. Both at the hearing on Petitioner's PCR application, and during the underlying trial, Vikki Hallman testified

¹ Amendment of the Pleadings to specifically include this allegation was the subject of a prior motion to the court made by Petitioner's PCR counsel. The Court informed the parties via email that the requested Amendment was unnecessary as there was no objection to evidence offered or arguments made in this regard at the hearing on this matter.

she worked for the sheriff's department during the relevant time period and that she took pictures of the crime scene. Although Ms. Hallman testified she could not recall whether the specific photographs Petitioner offered into evidence were among the 200 photographs she took of the crime scene in 2002, she did not deny that the pictures offered into evidence were in fact copies of the crime scene photographs. In any event, Petitioner would assert that because the photographs were obtained by Petitioner's counsel from the Lexington County Sheriff's Department pursuant to the December 30, 2010 order of Judge Knox McMahan allowing discovery in this PCR action, the photographs should be deemed authenticated due to the process by which they were obtained. Alternatively, Petitioner would respectfully request that the Court order copies of all the crime scene photographs to be provided to the Court directly from the Lexington County Sheriff Department's file, such that the proffered photographs can be authenticated by direct comparison to photographs whose authenticity is not in question.

3. The trial court erred in failing to rule on Petitioner's motions that the hearing be reconvened in order to allow additional testimony/evidence and that SLED documentation inadvertently omitted from entry into evidence at trial be admitted and considered by the trial court prior to issuing a final order.
4. Due to the lack of a transcription of the February 1, 2012 proceedings, Petitioner craves reference to each and every allegation contained in his original and amended Petitions and Memorandum in support of Petitions for post conviction relief, in addition to testimony offered at Petitioner's PCR hearing, with respect to issues of

ineffective assistance of counsel, error preservation, and/or errors and deficiencies in the Order of Dismissal including, but not limited to, the following:

- a. Despite Vicky Hallman's testimony at the hearing that she only photographed Petitioner's hands once, photographs offered or proffered into the record at the PCR hearing establish that TWO sets of photos of Plaintiff's hands exist, taken at different times. The trial court erred in failing to find that trial counsel was deficient in failing to investigate and prevent the prosecution from falsely advising the jury that photos of Petitioner's hands offered into evidence at trial depicted claimant's hands after the passage of significantly more time than had actually passed at the time the first set of pictures was taken. Failure in this regard resulted in extreme prejudice against Petitioner inasmuch as the jury was intentionally misled into believing that the injuries to Petitioner's hand were more severe than the injuries actually were in order to bolster the State's case against Petitioner. Petitioner asserts ineffective assistance of counsel as well as prosecutorial misconduct in this respect.
- b. Trial counsel failed to effectively challenge the unqualified testimony of Vicky Hallman regarding blood splatter evidence pertaining to untested blood, resulting in the jury being allowed to infer that Petitioner's blood was found throughout the crime scene, when such assumption was rebuttable via reference to SLED Id 23.

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COLLINGSWOOD, NJ

- c. The Court erred in failing to find that trial counsel was ineffective in failing to introduce conflicting statements made by Donna Hutto, Ms. Hutto's statements were conflicting on several issues, including her brother, a felon, being at the crime scene with a firearm before the police were summoned, as well as varying accounts of what Ms. Hutto was allegedly able to hear, discern, and/or hear at the time of incident. In any event, trial counsel advised the jury in opening statements that they would be shown evidence that the State's witnesses made conflicting statements to police; however, because counsel failed to offer the statements into evidence, the promised statements were not available when specifically requested by the jury for purposes of deliberation. Petitioner asserts the prejudicial effect of failing to have the conflicting statements available to the jury was profoundly prejudicial.
- d. The court erred in considering, as an apparent exemption from a finding of ineffective assistance of counsel or prosecutorial misconduct, that the State made a "strategic decision" not to try the defendants together. Whatever the State's rationale for doing so, the State's claim that "rules prevented the state from trying the co-defendants together" was false, misleading, amounted to prosecutorial misconduct, and trial counsel was deficient in failing to object to the statements, resulting in extreme prejudice to Petitioner.

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JULIE C. HARRIS
CLERK OF COURT
LEXINGTON SC

- e. The Order of Dismissal is deficient as a whole in that Petitioner's three hours' worth of testimony is not sufficiently referenced in any substantive manner and is in several instances mischaracterized, and the order fails to address the 34 exhibits Petitioner offered into evidence in support of his Post conviction relief claims, specifically including but not limited to trial counsel's failure to properly investigate. Again, in the absence of a transcription of the PCR proceedings, Petitioner craves reference to his PCR application and amended application, his actual testimony at the PCR proceedings, and his memorandum submitted in support of his application and amended application.
- f. The Order erroneously refers to Vicky Hallman as a forensic scientist in determining Trial Counsel did not err in failing to properly challenge her testimony – The record evidences the fact that Ms. Hallman was an ID officer and was not, nor did she claim to be, qualified as a forensic scientist.
- g. The Order fails to address Petitioner's assertion that trial counsel failed to object to Assistant solicitor Moses' statement to the jury that Jimmy Williams testified Petitioner was angry with the victim regarding drugs. Critically, Mr. Williams never offered any such testimony. Failure on the part of trial counsel to object to this mischaracterization resulted in extreme prejudice to Petitioner and also amounted to prosecutorial misconduct.

- h. The Order fails to address Petitioners allegations that trial counsel was ineffective in failing to object to the Prosecution arguing evidence not in the record, such as suggesting that police reports were "sanitized" to exclude certain evidence (See e.g.: Trial Tr. 355).
- i. Petitioner asserts that at the PCR hearing, he was prevented from fully arguing and establishing the effects of trial counsel's deficiencies, and craves reference on reconsideration to specific factual findings regarding each and every allegation of deficiency and resulting prejudice.
- j. The order fails to adequately address Trial Counsel's failure to object to only part of Travis Harsey's statement being admitted into evidence. While trial counsel may have been "concerned" that the statement contained evidence adverse to Petitioners position, the statement(s) would have, without question, solidified much of Petitioner's defense theory, such as there being another person at the scene, Harsey giving false information regarding ownership and disposal of the murder weapon, and Harsey's denial of a conspiracy.
- k. Petitioner specifically alleges that none of the issues he raised in his Petition, Amended Petition, or post hearing motions were abandoned as set forth in the Order at Page 22.

For the foregoing reasons, Petitioner respectfully requests an order arresting the Court's initial order in this matter pending Petitioner's ability to obtain a transcript of the PCR hearing and prepare a more detailed 59(e) motion fully fleshing out all allegations of

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

The State of South Carolina,

Plaintiff,

vs.

Randall Scott Tyler

Defendant.

IN THE COURT OF COMMON PLEAS
OF THE ELEVENTH JUDICIAL CIRCUIT

C.A. No.: 2007-CP-32-00907

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing, Motion for Reconsideration and/or to Arrest Judgment, has been served upon the following parties by placing a copy of the same in the United States mail, first class postage prepaid, addressed to their office as shown below this 4th day of June, 2012.

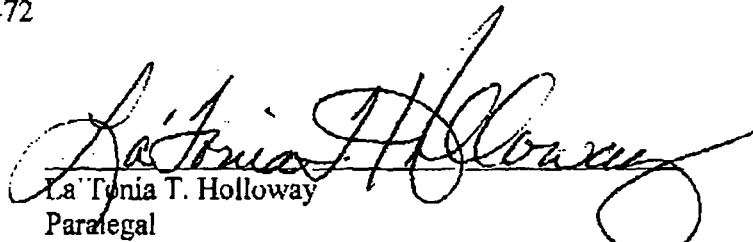
The Honorable W. Jeffrey Young
141 N. Main Street
Sumter, SC 29150

Kaelon E. May, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Randall S. Tyler SCDC # 294029
Lieber Correctional Institution
P.O. Box 205 EA-13
136 Wilborn Ave.
Ridgeville, SC 29472

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JIM A. CARRIG
CLERK OF COURT
LEXINGTON SC

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REAGAN S. FLEMING
SHAWN D. EUBANKS
COURTNEY M. LASTERPETER E. KEUP*
OF COUNSEL

June 4, 2012

* CERTIFIED CIVIL ARBITRATOR AND MEDIATOR
† ALSO ADMITTED IN CALIFORNIAThe Honorable Beth Carrigg
Lexington County Clerk of Court
205 E. Main Street
Lexington, South Carolina 29072Re: Randall Scott Tyler v. State of South Carolina
C.A. No.: 2007-CP-32-00907

Dear Ms. Carrigg:

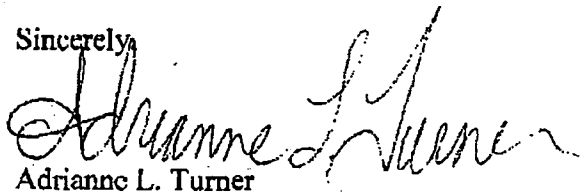
Enclosed please find for filing the original and one (1) copy of Petitioner Randall Scott Tyler's Motion for Reconsideration and/or Arrest of Judgment in the above-referenced matter.

Please return a time-stamped copy of the pleadings in the enclosed self-addressed stamped envelope provided for your convenience.

By copy of this letter, we are today serving this pleading on all other counsel in this matter.

Thank you for your attention to this matter.

Sincerely,


Adrienne L. Turner

/lth

Enclosures

cc: The Honorable W. Jeffery Young (w/encl.)
Kaleon E. May, Esq. (w/encl.)
Randall S. Tyler (w/o encl.)2012 JUN -6 PM 12:11
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

FILED

1 STATE OF SOUTH CAROLINA

IN THE CIVIL COURT

2 COUNTY OF LEXINGTON

3
4
5 RANDALL TYLER,

6 Applicant,

7 -vs-

8 STATE OF SOUTH CAROLINA,

9 Respondent.

)
)
) TRANSCRIPT OF RECORD
)
)

07-CP-32-00907
)
)

10
11 August 15, 2012
12 Lexington, South Carolina
13

14 B E F O R E:

15 HONORABLE W. JEFFREY YOUNG, Judge.
16
17

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

19 KAELOE E. MAY, Asst. Attorney General
Attorney for the Applicant

20 ADRIANNE L. TURNER, Esquire
21 Attorney for the State
22

23
24 L. COCONUT PANTSARI, R.P.R.
Circuit Court Reporter
25

INDEX

Certificate 23

INDEX OF WITNESSES

(Court Reporter's Note: There was no direct or cross examination of any witnesses).

INDEX OF EXHIBITS

(Court Reporter's Note: No exhibits were marked or received into evidence).

1 (The following proceedings are reported on
2 August 15, 2012.)

3 MS. MAY: May it please the Court. The next
4 case is Randall Tyler. It's a Rule 59 motion to
5 reconsider before the Court.

6 THE COURT: All right. Ms. Turner, are you
7 ready to proceed?

8 MS. TURNER: I am, Your Honor.

9 THE COURT: This is your motion. You may be
10 heard.

11 MS. TURNER: Thank you, Your Honor. As Your
12 Honor is aware, our motion included a request for a --
13 that a copy of the P.C.R. transcript be provided for
14 Mr. Tyler in relation to preparation of the 59(e) motion
15 I do understand that, Your Honor, has --

16 THE COURT: I don't think there is any rule
17 that says he is entitled to that.

18 MS. TURNER: I understand, Your Honor. Just
19 for the sake of the record, one of the --

20 THE COURT: I mean, I really don't even have
21 to have a hearing. I can rule on my own.

22 MS. TURNER: Yes, sir, I do understand that.
23 Certainly, Your Honor, I understand that. We would
24 point out for the sake of the record that there was a
25 prior order of the Court allowing Mr. Tyler to proceed

1 without costs to himself in this.

2 THE COURT: That wasn't my order.

3 MS. TURNER: Yes, sir, that is true. It was a
4 prior order of a different judge. Alternatively, the
5 petitioner, Mr. Tyler, does request the Court consider
6 the 59(e) motion as set forth, with the caveat that
7 reference is craved to the actual testimony and evidence
8 presented at the P.C.R. hearing on the merits, as well
9 as the petitioner's original and amended petition and
10 supporting memorandum.

11 The first issue raised in our motion is that
12 there is error present in the failure to find that
13 Mr. Bolt, petitioner's original trial counsel, was
14 deficient in failing to object to and actually eliciting
15 trial testimony of prior crimes and bad acts for which
16 Mr. Tyler had not been charged and was not on trial.

17 I believe that the record of the trial itself
18 establishes that there was no mention of any prior bad
19 acts prior to Mr. Bolt doing so. And in doing so and in
20 bringing up those prior bad acts, Mr. Tyler's own
21 counsel essentially established motive and intent on
22 behalf of the State.

23 That, in and of itself, we would argue is
24 prejudicial and egregiously so and results in a fatal
25 ineffective assistance of counsel. That is also set

1 forth in our motion as well.

2 The first issue we raised addresses
3 ineffective assistance of counsel in counsel failing to
4 object to the mischaracterization of the testimony of
5 Mr. James Williams. The solicitor characterized that
6 testimony to include allegations that petitioner told
7 Mr. Williams that he was angry with the victim over
8 drugs.

9 A review of the trial transcript, as well as
10 the evidence presented at trial, will establish that
11 Mr. Williams never said that. He never offered that
12 testimony, yet the State was allowed to characterize his
13 testimony as having included that allegation, which it
14 simply did not exist.

15 The petitioner would certainly assert that
16 that also resulted in a fatal ineffective assistance of
17 counsel, as well as misconduct on the part of the
18 prosecution in mischaracterizing that testimony to
19 include -- to bolster its own case while having no
20 evidence that that testimony actually existed.

21 The next issue raised in our motion, Your
22 Honor, regards the photographs that were presented and
23 proffered into evidence. Your Honor determined that
24 those photographs were not admissible due to a failure,
25 I believe, to authenticate those photos.

1 If Your Honor will recall, we did have Vickie
2 Hallman who testified she did take some 200 crime scene
3 photos here. She could not remember --

4 THE COURT: Well, this wasn't a merits
5 hearing. This was a P.C.R. hearing. This wasn't the
6 trial. The focus is on the lawyer.

7 MS. TURNER: Right. That is understood, Your
8 Honor; however, it's our position that in order to fully
9 be able to address the allegations of ineffective
10 assistance of counsel, as well as prosecutorial
11 misconduct, that Your Honor would certainly make
12 reference to the photographs.

13 Although Ms. Hallman could not -- or testified
14 she couldn't remember the specific, taking the specific
15 200 pictures, including the copies, the two different
16 copies of Mr. Tyler's hand injuries, the alleged hand
17 injuries that he had, a resolution of that difficulty in
18 authenticating the photographs would be to simply obtain
19 those photographs the same way I did, which is directly
20 from the Sheriff's Department's file.

21 In that manner the authenticity of the photos
22 would not be in question at all, and that wouldn't serve
23 as a barrier to them being considered by the Court. So
24 we would request that those photos be obtained and
25 considered in Your Honor's order.

1 The third issue that we raise is that there
2 is -- during the trial there were many exhibits offered
3 into evidence; however, inadvertently there were two
4 documents from S.L.E.D. that were excluded, we believe,
5 from being entered into evidence.

6 That has been subject to a prior motion, and I
7 believe that those documents were submitted along with
8 the motion. I do not believe Your Honor has yet ruled
9 as to whether those documents will be considered.

10 THE COURT: Again, this is a P.C.R. action.
11 I'm not going back and trying the original case. The
12 question is: Did Dennis Bolt act appropriately in
13 representing his client? I know your client wants to
14 retry the case in the P.C.R., but that is simply not
15 going to happen.

16 MS. TURNER: I understand Your Honor's
17 position. It's Mr. Tyler's position that those
18 documents speak directly to Mr. Bolt's --

19 THE COURT: What is his statement concerning
20 Mr. Bolt concerning that? He wants me to admit them
21 into evidence now and he is making a claim that I didn't
22 admit them into evidence. What is his complaint for the
23 trial? How did Mr. Bolt act inappropriately?

24 MS. TURNER: That he was ineffective in not
25 addressing the existence of these S.L.E.D. documents

1 which established that the prosecution actually told
2 S.L.E.D. not to evaluate all of the evidence.

3 THE COURT: Wouldn't that have been something
4 that you would have brought up on appeal?

5 MS. TURNER: You mean in the original appeal?

6 THE COURT: On direct appeal, that it didn't
7 come into evidence and should have.

8 MS. TURNER: Actually, Your Honor, if there is
9 no objection on the part of the trial counsel, it's
10 ineffective assistance of counsel.

11 THE COURT: That's if I find it is
12 ineffective.

13 MS. TURNER: Yes, sir. But that would be the
14 reason why it wasn't brought up in the original appeal
15 because it wouldn't be preserved if counsel didn't --
16 the trial counsel didn't object to it or bring up the
17 matter.

18 THE COURT: All right. Thank you.

19 MS. TURNER: Our fourth issue actually is
20 quite extensive.

21 THE COURT: And I have ruled on that, I think.
22 Well, I'm not going to give him a copy of the
23 transcript.

24 MS. TURNER: Yes, sir, that was the original
25 issue. Issue number four in our motion actually goes

1 more to the specifics of the individual claims of
2 ineffective assistance of counsel and prosecutorial
3 misconduct.

4 THE COURT: Okay.

5 MS. TURNER: We would like to state for the
6 record that due to the lack of a transcript, Mr. Tyler
7 not having the funds or access to prepare a more
8 specific 59(e) motion, that reference is craved to all
9 of the testimony and evidence that was presented at the
10 P.C.R. hearing on the merits.

11 That said, issue (A), (4)(A), is in reference
12 to Vickie Hallman's testimony at the hearing, at the
13 P.C.R. hearing, regarding there being two sets of
14 photographs of Mr. Tyler's hands.

15 I believe the solicitor at the P.C.R. hearing,
16 Mr. Swarat, admitted: Yeah, there is more than one set
17 of photographs. Mr. Tyler's argument in this regard is
18 that Mr. Bolt was ineffective in failing to point out to
19 the jury or object to the use of one set of photos that
20 the prosecution asserted was taken ten days after
21 Mr. Tyler's arrest, when, in fact, the photos that the
22 prosecution referred to -- which were presented to the
23 Court in the P.C.R. hearing -- were photos that were
24 taken on the day that Mr. Tyler was arrested.

25 That had the effect of bolstering the State's

1 argument that his injuries were much worse -- that the
2 injuries that showed on his hands were much worse than
3 they actually were because the pictures the State said
4 were taken ten days after his arrest were actually taken
5 much, much earlier than that.

6 They are pictures of his hands ten days after
7 his arrest that Ms. Hallman took, and they show no
8 injuries to his hands at all. In that regard Mr. Bolt
9 was deficient in failing to object to the evidence being
10 mischaracterized in that manner.

11 The prosecution, in switching those
12 photographs and mischaracterizing the evidence
13 intentionally, was guilty of prosecutorial misconduct.
14 Under -- and that issue we would allege should be
15 addressed in accordance with Quattlebaum.

16 Issue (B), trial counsel failed to effectively
17 challenge the unqualified testimony of Vickie Hallman
18 regarding the blood spatter evidence pertaining to
19 untested blood, is that Mr. Bolt's failure to object to
20 that testimony allowed the jury to be given the
21 impression that petitioner's blood was found throughout
22 the scene; and that was not the case.

23 There is no evidence that would support that
24 assumption, and Mr. Bolt was ineffective in failing to
25 prevent that testimony from -- from allowing that

1 essentially to be presented to the jury.

2 Issue (C) deals with Mr. Bolt's
3 ineffectiveness in failing to introduce the conflicting
4 statements of Donna Hutto. This is a particularly
5 egregious error on the part of Mr. Bolt.

6 When Mr. Bolt gave his opening statements in
7 this hearing, he told the jury that the jury would see
8 from the witnesses or several witnesses for the State
9 conflicting statements -- one, two, three different
10 statements -- in which the State's witnesses would
11 testify and give inconsistent testimony regarding the
12 issues for which Mr. Tyler was on trial.

13 The jury found that promise important enough
14 to ask for those statements when they were deliberating.

15 THE COURT: They were never put into evidence;
16 is that correct?

17 MS. TURNER: Mr. Bolt never put them into
18 evidence. So when the jury asked for them, the trial
19 court, of course, could not allow the jury to see
20 those.

21 We would, of course, argue that particularly
22 given that the jury literally asked for the statements
23 that Mr. Bolt promised they would be able to see
24 amounted to ineffective assistance of counsel and most
25 certainly affected the outcome of his trial.

1 Those statements were full of inconsistencies,
2 and, in fact, Ms. Hutto admitted in those statements
3 that she lied to the solicitors regarding the timeline,
4 regarding her brother who is felon having a gun at the
5 scene of this crime.

6 You add to that the fact that you have the
7 solicitor telling S.L.E.D. not to evaluate all of the
8 evidence because the solicitor was trying to show -- and
9 the solicitor literally said this -- I'm trying to show
10 that all the bullets came from one gun. So, S.L.E.D.,
11 don't evaluate any of the other bullets on the scene.

12 That in and of itself makes Mr. Bolt's failure
13 to get Ms. Donna Hutto's inconsistent statements into
14 the record particularly egregious. Now, I believe at
15 the P.C.R. hearing Mr. Bolt may have said, Well, I made
16 a strategic decision.

17 THE COURT: And I think that's what the
18 testimony was.

19 MS. TURNER: He may have said that, you know,
20 in hindsight; but at that trial he told the jury, You
21 are going to get to see these inconsistent statements.

22 THE COURT: That's probably not the first time
23 that has happened, that an attorney says something in
24 opening statement -- which the jury is instructed that
25 is not evidence -- and then later doesn't get them into

1 evidence.

2 MS. TURNER: That is true. But it was
3 ineffective on his behalf to have done that that way,
4 and it's our position that it's disingenuous at this
5 point in time to say, Well, that was a strategic
6 decision, when at trial obviously his strategy was to
7 impeach the lady on her inconsistent statements.

8 He just didn't do it. To the extent that he
9 argues, Well, those statements had some negative --
10 would have had some negative impact on Mr. Tyler's
11 defense at trial -- Ms. Hutto was there. She testified.
12 She gave that testimony that had the negative impact.

13 Because he didn't get those -- her
14 inconsistent statements -- in, there was very little to
15 challenge her credibility when that evidence did exist;
16 and he had already told the jury they were going to see
17 it.

18 Obviously, it mattered because the jury asked
19 for it; and they weren't allowed to see it at that
20 point. So we would assert, of course, that that was a
21 pivotal error.

22 THE COURT: All right.

23 MS. TURNER: Issue (4) (D), in regards to the
24 State -- or Mr. Tyler's argument that Mr. Bolt failed
25 or was ineffective in failing to object to the State

1 telling the jury in closing that there were rules that
2 prevented the defendants from being tried together, the
3 order notes that that was a strategic -- Mr. Swarat
4 testified, I think, that that was a strategic decision
5 not to try the defendants together.

6 It would, of course, be our position that
7 whatever the State's strategy was to try and get
8 Mr. Tyler convicted doesn't speak to Mr. Bolt's
9 ineffectiveness in failing to object to that strategy
10 when the State was, in fact, presenting evidence that
11 was not in the record.

12 They were mischaracterizing what the rules
13 are. They were telling the jury, Look, there's stuff
14 that you don't know. It's that "stuff" that is not in
15 evidence that strengthens our case, and Mr. Bolt didn't
16 do anything.

17 So even if it was a valid, strategic plan on
18 the part of the State, it in no way abrogates Mr. Bolt's
19 obligation to have objected to that and to protect
20 Mr. Tyler from that inappropriateness on the part of the
21 State.

22 In issue (E) Mr. Tyler gave a lot -- three
23 hours worth -- of testimony at the post conviction
24 relief hearing. Due to the lack of a transcript, we are
25 not, of course, able to say with great specificity or

1 exactly what testimony should have been addressed
2 specifically in the order.

3 However, as a whole, it's Mr. Tyler's position
4 that as a whole the order fails to sufficiently
5 reference either his testimony or the 34 exhibits that
6 were entered into evidence in support of his claim for
7 post conviction relief.

8 That specifically includes but certainly is
9 not limited to the evidence that was introduced
10 regarding Mr. Bolt's failure to properly --

11 THE COURT: So I need to go through -- he
12 wants me to go through each and every piece of evidence
13 that was admitted and comment on it?

14 MS. TURNER: Well, Your Honor, to the extent
15 that it's relevant to the factual findings that the
16 Court makes.

17 THE COURT: I don't think I am required to do
18 that. He wants that but I am not required to do that.

19 MS. TURNER: Yes, sir. I understand the
20 Court's position; however, we would assert that those 34
21 exhibits, along with Mr. Tyler's testimony, is certainly
22 relevant and necessary in reaching an appropriate
23 determination on the merits of his post conviction
24 relief application.

25 THE COURT: Okay.

1 MS. TURNER: Issue (F), the order refers to
2 Ms. Hallman as a forensic scientist and in determining
3 that trial counsel was not ineffective and didn't err in
4 failing to object to her unqualified testimony.

5 Ms. Hallman is not and did not claim to be a
6 forensic scientist at the time of Mr. Tyler's trial. We
7 would simply assert then that the basis set forth in the
8 order is inappropriate regarding that particular ruling
9 on Mr. Bolt's failure to properly challenge the
10 testimony that she offered at trial.

11 Issue (G) deals with Mr. Bolt's failure to
12 object to Assistant Solicitor Moses' statement to the
13 jury that Jimmy Williams testified petitioner was angry
14 with the victim regarding drugs.

15 Again, that's a critical point for us, Judge.
16 A thorough review of the trial transcript and evidence
17 presented at trial will reveal that Mr. Williams never
18 said that, and Mr. Bolt allowed the solicitor to say
19 that he did say it.

20 That was a large part of the State's theory of
21 prosecution, and it went unobjected to. We would, of
22 course, argue that that was a fatal mistake on
23 Mr. Bolt's part in failing to object and bringing that
24 to the jury's attention.

25 I don't believe as far as issue (H), I don't

1 believe that the order addresses petitioner's allegation
2 that trial counsel was ineffective in failing to object
3 to the prosecution arguing evidence not in the record;
4 for example, suggesting that the police reports were
5 sanitized to exclude certain evidence.

6 Now, that in and of itself is presenting
7 evidence to the jury which is not -- I mean, there was
8 no evidence to support that statement. And where the
9 solicitor was drawing that information from was itself
10 inappropriate because he was referring to Travis
11 Harsey's hearsay testimony, basically attempting to get
12 more of Mr. Harsey's testimony, which was inappropriate
13 in the first place because it was hearsay testimony.

14 Through telling the jury that the police
15 reports are -- they don't even tell you the whole story.
16 Mr. Bolt, in not objecting to that, again, allowed the
17 jury to be presented with and consider that there were
18 even more facts that bolstered the State's case when no
19 such evidence existed.

20 Issue (I) regards some of the restrictions on
21 Mr. Tyler's ability to testify at the P.C.R. hearing.

22 THE COURT: I don't remember there being any
23 restrictions. I think he was on the stand for well over
24 three hours.

25 MS. TURNER: That is true, Your Honor;

1 however, Mr. Tyler --

2 THE COURT: Did he want to be on there six
3 hours?

4 MS. TURNER: It's his position that he was not
5 able to fully flesh out all the issues. There was
6 numerous issues. To that end, Your Honor, we do crave
7 reference to Mr. Tyler's -- the 34 exhibits that he did
8 submit, including Ms. Hutto's statements or her
9 conflicting statements to the police.

10 In that particular instance, Your Honor,
11 Mr. Tyler was not allowed to specifically discuss the
12 content and the conflicting statements in those
13 documents because those documents were entered into
14 evidence.

15 They were before the Court for the Court's
16 consideration, but he wasn't really allowed to go into
17 those on the stand. That is just one of the examples.
18 But for purposes of the 59(e) motion, we would refer
19 also to Mr. Tyler's petition and supporting memorandum
20 regarding those issues.

21 Issue (J), Mr. Bolt at the trial, when the
22 State went to enter into evidence Mr. Harsey's statement
23 to the police, even though Mr. Harsey was not at the
24 trial, he did object to that, I believe, on the grounds
25 of hearsay.

1 However, once the Court overruled his
2 objection, Mr. Bolt did not argue that --

3 THE COURT: I thought you were not supposed to
4 argue after a judge makes a ruling.

5 MS. TURNER: Absolutely, Your Honor. But then
6 the State did not, in fact, enter into evidence
7 Mr. Harsey's entire statement. The State only cherry
8 picked parts of Mr. Harsey's statement.

9 THE COURT: They could have put the whole
10 statement in; correct?

11 MS. TURNER: I'm sorry?

12 THE COURT: They could have put the whole
13 statement in; correct?

14 MS. TURNER: Yes, they could have. And if
15 they were allowed to put any of it, then they should
16 have put the whole statement in. Because otherwise they
17 are allowed to comment, as they did during closing
18 arguments, about evidence that was not in the record.

19 They did that -- the State did that -- to the
20 jury. So it's our position that to the extent that the
21 State was allowed to put any of Mr. Harsey's statement
22 into the record, then Mr. Bolt should have insisted that
23 that entire statement be entered into evidence.

24 Because once part of it got in, the part that
25 was damaging to Mr. Tyler, the other parts where -- for

1 instance, Ms. Hutto kept saying there was no body else
2 at the scene. It was just Mr. Tyler.

3 In Mr. Harsey's statement, he admitted that he
4 was there, that he was at the scene. That in and of
5 itself would have strengthened part of Mr. Tyler's
6 defense, but Mr. Bolt -- although he could have insisted
7 if y'all going are to put some of that statement in,
8 then you are not going to cherry pick passages. You are
9 going to put the whole statement in so the jury gets the
10 fullest picture -- he failed to do that, and that
11 irreparably damaged Mr. Tyler's defense.

12 THE COURT: All right.

13 MS. TURNER: Issue (K), the order -- and I'm
14 not exactly sure if this was regarding -- if part of the
15 order was specifically regarding any issues that
16 Mr. Tyler presented to the Court.

17 But it says that all the issues -- that there
18 are some issues that Mr. Tyler waived by not presenting
19 them, both at the P.C.R. hearing; and Mr. Tyler, in his
20 application and supporting memorandum specifically, we
21 reserve all of the issues.

22 THE COURT: If you didn't argue anything at
23 the hearing and give me any evidence, how can I rule on
24 it?

25 MS. TURNER: What we are saying, Your Honor,

1 is there were no issues that --

2 THE COURT: So it's everything he argued.

3 MS. TURNER: That was argued or presented,
4 yes, sir.

5 THE COURT: Okay.

6 MS. TURNER: That, again, goes back to the 34
7 exhibits and Mr. Tyler did offer three hours of
8 testimony.

9 THE COURT: All right.

10 MS. TURNER: On those grounds, Your Honor, we
11 would assert that the order denying or dismissing
12 Mr. Tyler's post conviction relief petition should be
13 reversed. Mr. Tyler should, in fact, be granted a new
14 trial.

15 THE COURT: Thank you.

16 MS. TURNER: Thank you very much.

17 THE COURT: Ms. May.

18 MS. MAY: Just briefly, Your Honor. May it
19 please the Court. Your Honor, the State would just rely
20 on the order. I think it's very specific and addressed
21 every single issue that Mr. Tyler raised in his
22 petition, in both of his amended petitions.

23 The order also states that the Court reviewed
24 the exhibits that were entered into evidence at the
25 hearing. As Your Honor stated, you are not required to

1 address each and every single exhibit and comment on it.

2 I believe that the facts and conclusions of
3 law rendered in the order are adequate as required under
4 Rule 52 and required by the P.C.R. statute.

5 THE COURT: Any reply briefly?

6 MS. TURNER: Nothing further, Your Honor.

7 THE COURT: I will take this matter under
8 advisement. I will let you know my ruling within 15
9 days.

10 MS. TURNER: Thank you, Your Honor.

11 THE COURT: Thank you.

12 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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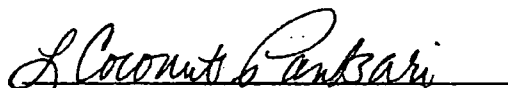
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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal, in the Civil Court for Lexington County, South Carolina on the 15th day of August, 2012.

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

October 7, 2012



Court Reporter

BOYKIN & DAVIS, LLC

Attorneys and Counselors at Law

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OF COUNSEL

July 30, 2012

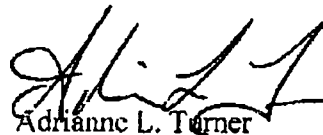
* CERTIFIED CIVIL ARBITRATOR AND MEDIATOR
† ALSO ADMITTED IN CALIFORNIAThe Honorable Beth Carrigg
Lexington County Clerk of Court
205 E. Main Street
Columbia, SC 29072Re: State South Carolina v. Randall S. Tyler
C.A. 2007-CP-32-0907 (PCR)

Please except this correspondence as Mr. Tyler's second official request for a transcript of the February 1, 2012 Post Conviction Relief hearing before Judge Jeffrey Young. Mr. Tyler was previously granted leave to proceed without cost in this action per Judge Knox McMahon's order of December 30, 2010. Accordingly, Mr. Tyler requests that the transcription be provided at no cost to him prior to the hearing on Mr. Tyler's Rule 59(e) Motion for reconsideration which is currently scheduled to be heard during the week of August 13, 2012.

Please feel free to contact me should you have any questions or concerns regarding this second request for a transcription of the February 1, 2012 proceedings.

Thank you in advance for your prompt assistance in this matter.

Sincerely,



Adrienne L. Turner

/lth

Cc: Randall S. Tyler

2012 AUG -1 PM 11:45
BOYKIN & DAVIS
CLERK OF COURT
LEXINGTON SC

FILED

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Randall S. Tyler,

Applicant,

vs.

State of South Carolina,

Respondent.

FILED

2007-CP-32-00907

2013 MAR 28 A 11:46

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

ORDER

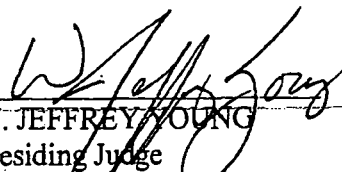
This matter comes before the Court by way of Applicant's Motion to Alter or Amend Judgment pursuant to Rule 59, SCRCP. The Final Order of Dismissal in this matter was signed by me on May 4, 2012. A hearing into the matter was convened on August 15, 2012 at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Adrienne L. Turner, Esquire. Respondent was represented by Kaelon E. May, Esquire, of the South Carolina Attorney General's Office.

Based upon careful reconsideration of all of the evidence in this case and upon full consideration of Applicant's motion and subsequent hearing on the matter, this Court is not persuaded to alter or amend the judgment. The previous order fully comports with the requirements of Rule 52(a) SCRCP.

IT IS THEREFORE ORDERED:

1. That the Applicant's motion is denied and dismissed.

AND IT IS SO ORDERED this 13 day of March, 2013


W. JEFFREY YOUNG
Presiding Judge
Eleventh Judicial Circuit

Sumter, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2007CP3200907

Randall S Tyler	State Of South Carolina Henry McMaster
PLAINTIFF(S)	DEFENDANT(S)

Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant
	or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

☐ See attached order; (formal order to follow)

☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT ENTRY

Complete this section below when the judgment entered in this case involves a monetary award or if any amount should be enrolled. If there is no judgment information, indicate "None" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge

2156

Judge Code

3/29/2013

Date

For Clerk of Court Office Use Only

This judgment was entered on n/a, and a copy mailed first class or placed in the appropriate attorney's box on 29th day of March 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Adrianne LaVonne Turner PO Box 11844 Columbia, SC
29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

John Walter Whitmire 1301 Heidt St. Columbia, SC 29204

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/wh

Beth A. Carrigg - Clerk of Court

Court Reporter

WITNESSES

LCSD

Filer

ARREST WARRANT NUMBER

H-128792

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 6/5/03

VERDICT

Guilty

Foreperson of Petit Jury
Date: 6/12/03

Jeanne Dunn

DOCKET 2003-GS-32- 2266

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

JUNE TERM 2003

THE STATE

VS.

RANDALL SCOTT TYLER

CDR# 116

Indictment for

MURDER
§16-3-10

DONALD V. MYERS, SOLICITOR

A TRUE COPY

Lex. Co. C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
MURDER
§16-3-10

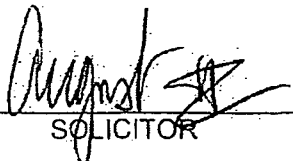
At a Court of General Sessions, convened in June 2003, the Grand Jurors of
LEXINGTON County present upon their oath:

MURDER

§16-3-10

That **RANDALL SCOTT TYLER** did, along with a co-defendant, in Lexington
County, between the dates of July 13, 2002 and July 14, 2002, willfully, feloniously and
with malice aforethought kill one **Robert Lewis**, by shooting him with a firearm, a deadly
weapon, and/or beating him with an unknown object, and Robert Lewis died as a result
thereof, in violation of §16-3-10 of the South Carolina Code of Laws of 1976, as
amended.

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


SOLICITOR

WITNESSES

LCSD

Frier

ARREST WARRANT NUMBER

H-128821

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 6/5/03

VERDICT

Guilty

Foreperson of Petit Jury
Date: 6/12/03

Jessie Runn

DOCKET # 2003-GS-32- 2265

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

JUNE TERM 2003

THE STATE

vs.

RANDALL SCOTT TYLER

CDR# 79

Indictment for

Burglary First Degree
§16-11-311

DONALD V. MYERS, SOLICITOR

A TRUE COPY

Lex. Co. C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

INDICTMENT FOR
 BURGLARY FIRST DEGREE
 §16-11-311

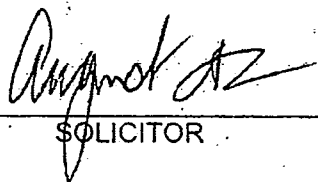
At a Court of General Sessions, convened in June 2003, the Grand Jurors of LEXINGTON County present upon their oath:

BURGLARY FIRST DEGREE

§16-11-311

That **RANDALL SCOTT TYLER** did, along with a co-defendant, in Lexington County, between the dates of July 13, 2002 and July 14, 2002, willfully and unlawfully enter the residence of Robert Lewis located at Highway in Lexington County, South Carolina, without permission and with the intent to commit a crime therein, to wit: assault and/or larceny, and while in the dwelling or immediate flight therefrom, the defendant (1) became armed with a deadly weapon: to wit: a firearm; and/or (2) the entering or remaining occurred in the nighttime; and/or (3) caused injury to the victim which was a non-participant; and/or (4) the defendant had two or more prior burglaries and/or housebreakings or a combination of both, violation of §16-11-311 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

WITNESSES

LCSD

FRIER

ARREST WARRANT NUMBER

STRAIGHT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 6/5/03

VERDICT

GUILTY

For person of Petit Jury
Date: 6/12/03

DOCKET # 2003-GS-32- 2264

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

JUNE TERM 2003

THE STATE
vs.

RANDALL SCOTT TYLER

CDR# 49

Indictment for

Criminal Conspiracy
§16-17-410

DONALD V. MYERS, SOLICITOR

A TRUE COPY
Lex. Co. C.C.P., G.S. & F.G.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
CRIMINAL CONSPIRACY
§16-17-410

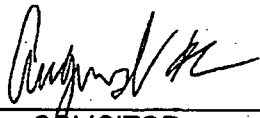
At a Court of General Sessions, convened in June 2003, the Grand Jurors of
LEXINGTON County present upon their oath:

CRIMINAL CONSPIRACY

§16-17-410

That **RANDALL SCOTT TYLER**, did in Lexington County on or about July 13, 2002, knowingly, unlawfully, and willfully unite, combine, conspire, confederate, agree and have tacit understanding with Travis Harsey for the purpose of committing a crime therein, to wit: assault, and/or burglary, and/or larceny, in violation of §16-17-410 of the South Carolina Code of Laws of 1976, as amended.

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



SOLICITOR