

STATE OF SOUTH CAROLINA  
**RECEIVED** IN THE SUPREME COURT

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MAR 30 2016

Certiorari to Dillon County

S.C. SUPREME COURT Eugene C. Griffith, Jr. Cir. Court Judge

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Jeremy Wright

Petitioner

vs

State of South Carolina

Respondent

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PETITIONER'S PRO-SE BRIEF

Case No<sup>#</sup> 2015-001513

Jeremy Wright<sup>#</sup>  
McCormick C.I.  
Unit 4 - B  
386 Redemption Way  
McCormick, SC 29899

Appellate Defender for Petitioner

David Alexander

P.O. Box 11589

Columbia, SC 29211-1589

# INDEX

INDEX \_\_\_\_\_ 1

ISSUE PRESENTED \_\_\_\_\_ 2-3

STATEMENT \_\_\_\_\_ 4

ARGUMENTS \_\_\_\_\_ 5-34

CONCLUSION \_\_\_\_\_ 34

## ISSUE PRESENTED

- (1) Whether the P.C.R. court erred in finding, that trial counsel was not ineffective in failing to advance any argument, that the State acted in ~~bad~~ faith when it lost crucial evidence, which violated Petitioner's 6<sup>th</sup> Amend. right to effective assistance of counsel.
  
- (2) Whether the P.C.R. court erred in finding, that trial counsel was not ineffective in failing to retain a ballistics expert.

(3) Whether the P.C.R. court erred in ruling that prosecutorial misconduct was a direct appeal issue, when Petitioner had the burden to prove actual prosecutorial misconduct in his P.C.R. hearing

(4) Whether the P.C.R. court erred in finding Petitioner did not prove a due process violation.

## STATEMENT

For the record of his brief the Petitioner agrees with his Appellate Defender's statement upon his Johnson petition for writ of certiorari.

## ARGUMENT (1)

The Petitioner argue, that the P.C.R. court errored in finding that trial counsel was not ineffectve in failing to advance "any" argument, that the State acted in bad faith when it lost crucial physical evidence, consisting of several shell casings and the fragment the State determined that killed Kelvin Smalls.

At the P.C.R. hearing petitioner argued, that trial counsel was ineffectve for failing to argue, that the State acted in bad faith in losing the fragment. SEE: App p 501  
L5-12.

The P.C.R. court denied his claim  
SEE: App p 527 - p 528 Citing Arizona v Youngblood  
488 U.S. 51, the P.C.R. court held that the record contains no evidence the State acted in bad faith in destroying the evidence  
SEE: App p 527 - p 528 Judge, Bo. With  
concluded that with no evidence the

State acted in bad faith, trial counsel could not have been ineffective in failing to make this argument SEE: App. 528.

Petitioner argue, that there is no evidence of probative value to support the findings of the P.C.R. court SEE: Bright v State 618 SE2d 296; Magazine v State 606 SE2d 761; Holland v State 470 SE2d 378. When it was **UNDISPUTED**, that the State lost **KEY** evidence before his trial, the solicitor testified at the P.C.R. hearing and admitted that the shell casings collected at the scene were lost SEE App. 512 L2 - p 513 - L. 8. The solicitor testified that he did not know if they ever really got a definitive answer to what happened to the missing evidence SEE: App. 513 L17 - L23.

Agent West Jackson from A.T.F testified

at the suppression hearing, that some items of the evidence was bullets were used in petitioner's federal trial SEE: App p 45 L2 - L12. Agent Jackson explained that the normal procedure after the conclusion of a federal trial is, that any physical evidence is returned to the agency that collected the evidence SEE: App p 46 L1 - p 47 - L23.

Agent Jackson further testified that he wasn't sure who the officer was who he gave the evidence back to. Because they had a little struggle in the court room at that particular time SEE: App p 46 L13 - p 49 - L3; App p 48 L13 - p 49 - L6

But the evidence never entered his agency as the evidence. And, the Sheriff's office held onto the evidence until they was ready for trial (Fed) who brought it over and kept possession

at all times until they go into the court room. Agent Jackson explained that the evidence was given back to a law enforcement officer, that represented Dillon County Sheriff's Office SEE: App 49 L 17 - p 50 - L 11.

It was **UNDISPUTED** that the lost evidence was in the sole possession of the State SEE: App 512 L 2 - p 513 - L 8.

Trial counsel moved in limine to suppress evidence of the shell casings and the bullet that was removed from the victim's head SEE: App 52 L 20 - p 53 - L 6 Trial counsel only cited the Due process clause of the Federal constitution as authority for suppressing the evidence SEE: App 52 L 20 - p 53 - L 6.

Trial counsel did not make any argument based on the South Carolina Constitution  
Trial counsel explained that petitioner

was prejudiced by the loss of the evidence  
SEE: App. 53 L 24 - p55-L4. The state  
intended to introduce photographs of shell  
casings matching only the gun petitioner  
allegedly used in the shooting. BUT A  
TOTAL OF THIRTY-THREE shell casings of  
FOUR to FIVE DIFFERENT types were  
recovered SEE: App. 52 L 20 - p55-L4.

The solicitor agreed that there was more  
than one gun being shot that night SEE:  
App. 55 L 6 - L 8 The State argued that  
there was no prejudice because SLED  
analyzed the bullet taken from the victim's  
brain and could testify about the kind of  
weapon that would have fired it SEE:  
App. 55 L 6 - p56-L24. The trial court made  
a preliminary ruling that the defense failed  
to show **Bad** faith on the part of the

State SEE: App 58 L2 - L15.

The next morning trial counsel objected again to the introduction of State's exhibits 21 and 22 photographs of a shell casing and an UNFIRED bullet SEE: App 70 L21 - p 71 - L22. Trial counsel argued for the exclusion of these photographs as more prejudicial than probative, citing Rule 403, because of the inability to introduce the lost evidence of the other shell casings collected SEE: App. 70 L21 - p 73 - L2. Judge Russo denied the motion to suppress SEE: App. 74 L16 - p 75 - L19.

At no point did trial counsel argue that she acted in bad faith or make "any" argument based on state law. Trial counsel only asked the court to note her previous objection when

photographs of shell casings were admitted  
SEE: App 102 L 7 - L 15. When photographs  
of the bullet fragments were introduced,  
trial counsel admitted she had no  
authority to support her motion to  
suppress based on the Due Process Clause

SEE: App. 262 L 3 - p 263 L 10.

Trial counsel did not renew these  
objections when the SLED expert testified.  
The trial court denied petitioner's request  
for a jury charge regarding lost evidence

SEE: App. 377 L 19 - L 24.

Trial counsel explained at PCR that they  
did not realize that the evidence was  
lost until the second day of the trial  
SEE: App 483 L 14 - L 16. She explained that  
she never had an opportunity to inspect  
the lost shell casings because they were

Used in Federal trial before petitioner's  
State trial SEE: App p 483 L14 - p 484 - L10

She testified in a nutshell, when the  
items were brought back to Dillon County  
the shell casings were not there SEE:  
App p 484 L5 - L7

Petitioner argue that trial counsel's  
testimony is clearly **not** creditable. And  
the State court has no evidence of  
value to support its findings.

Where at the beginning of Petitioner's  
STATE trial on May 18, 2009 Counsel  
argued bad faith SEE: App-p 52 L16 -  
p 50 - L19. Not the second day of  
trial SEE: App-p 66 as she argued at  
his P.C.R. hearing SEE: App-p. 483 L14 - L16

Moreover, Agent Jackson testified that  
the normal procedure after the conclusion

of a Federal trial is that any physical evidence is returned to the agency that collected the evidence. SEE: App-p 46 L1-p 47 L23.

SLED agent Paavel testified that the evidence came straight from Dillon County to SLED SEE: App-p 328 L3-L12.

Petitioner, testified at his P.C.R hearing that the **FRAGMENT** the state had determined that killed Kelvin Smalls was never introduced at his Federal trial SEE: App 501 L5-p 502-L17; App-p 508 L12-p 509-L2

James Campbell, the lead Inv. with Dillon County testified that he took all the evidence to SLED on the same day. Two days after

the incident - the same day they got the autopsy report back SEE: App. 144 L2 - L21

But before he took the evidence they collected, Inv. Campbell kept the evidence in his car and Dillon County did not have a policy in place for collecting evidence SEE: App. p. 141 L25 - p 142 - L21.

But here, SLED agent Paavel testified that Inv./Lt. Campbell did not submit all the evidence on the same day - the evidence was submitted on 6/20/2007 and 6/25/2007 SEE: App. p. 324 L15 - p 326 - L1.

Petitioner agree that the **FRAGMENT** that was determined that killed Kelvin Smalls was lost in bad faith.

It was **UNDISPUTED** that the **FRAGMENT**

was in the sole possession of the STATE.  
Where Campbell testified he took  
the evidence to SLED - the same day  
they got the autopsy report back SEE:  
App p 144 L2 - L21

Here, SLED agent Pavel also testified  
that several of the items were  
submitted the first time and then  
he had a conversation with Inv./Lt.  
Campbell giving him preliminary results  
of the items - during that conversation  
it came up that there were more  
pieces of evidence not submitted and he  
would submit on a later date SEE:  
App p 325 L11 - L13.

Petitioner also argued at his P.C.R.  
that his trial counsel was ineffective

for failing to argue that the State acted in bad faith in losing the shell casings SEE: App 505 L20 - p 506 - L19.

As argued above, the PCR Judge denied petitioner's claim SEE: App 527-28 Citing Arizona v Youngblood 488 U.S. 51

Petitioner argue the PCR court erred in its application of Youngblood. Because the crucial physical evidence "shell casings and the fragment was always in the exclusive possession of the State, who lost and/or destroyed them in bad faith.

In such a circumstance, trial counsel made no argument concerning bad faith under federal law or any under state law, which she should have, nor did counsel

argue under state law for a modified test when the State loses potentially material evidence.

In a concurrence, then Justice Pleicones wrote that South Carolina's analysis is more expansive than Youngblood see State v Reaves 777 S.E.2d at 221 citing State v Cheeseboro 552 S.E.2d 300. The concurrence found that under state law, a defendant can establish deprivation of a fair trial if the evidence possessed an exculpatory value apparent before the evidence was destroyed, and the defendant cannot obtain other evidence of comparable value by other means *Id.*

The test articulated by the concurrence aligns with public policy because the State has sole custody of the evidence and the burden of preserving the evidence must be placed on

the state. The State will also retain all of the evidence relating to the evidence's destruction, making it nearly impossible for a defendant to prove bad faith under the strict federal standard.

Using Chief Justice Pleicone's standard for evaluating lost evidence cases creates a strong incentive for the police to be scrupulous in their handling of evidence. Because a defendant cannot influence the storage and handling of evidence, then it makes no sense for the defendant to bear the extraordinarily high burden under the Youngblood test. Under Youngblood the State can claim simple negligence in losing key evidence and suffer no sanction.

The cases cited by the majority in Reaves use a similar state law test. See Commonwealth v Henderson 582 N.E.2d 496. Massachusetts holds that its due process clause provides more protection in lost evidence cases than Youngblood Id. at 497. The Henderson test requires the trial judge to "consider and balance the degree of

the government, the materiality of the evidence, and the potential prejudice to the defendant in order to protect the defendant's constitutional right to a fair trial *Id.* See also State v

Osakalumi 461 SE2d 504 - establishing a multi-factor test when the state loses evidence that expressly considers negligence and the state's duty of preservation.

It was **UNDISPUTED** that the lost evidence was in the sole possession of the state. Had petitioner been able to present the lost shell casings and the fragment, it would have bolstered his defense that multiple guns were used and he was not the shooter, that killed Kelvin Smalls. A witness who had military experience testified that multiple assault **RIFLES** were fired that night SEE: App.p 353 L14 - p354 L12. She said it sounded like the Fourth of July SEE: App.p 355 L16 - L19.

She did not hear any gunshots when petitioner left the club. SEE: App.p 353 L14 - L19; Sherika

Robinson testified that she did not see petitioner with a gun that night and was observing him at the same time she heard gunshots SEE: App-p360 L14 - L24.

Tina McKinnon also testified that there was more than one gun and the shooting was coming from different directions SEE: App.p366 L13 - p367 - L8.

Trial counsel testified at the P.C.R. hearing that somehow Ins./Lt. Campbell had it at some point, then there was some indication that maybe some former officers misplaced evidence INTENTIONALLY. in changing of the guards with our Sheriff's Dept. during a highly contested election. But there were a number of allegations, but nothing concrete to indicate exactly what happened - many people though just passing the buck SEE: App.p 485 L10 - p 486 - L10.

Petitioner argue that it was undisputed, that the lost evidence was in the sole possession of the state SEE: App.p 49 L17 - p 50 - L11. Where Agent. Jackson testified that the Sheriff's office held onto the evidence, until the Fed was ready for trial, the State - Sheriff's office brought it over and kept possession at all times, until the Fed. go into the court room. Agent. Jackson explained that the evidence was given back to a law enforcement officer, that represented Dillon County Sheriff's office SEE: App.p 49 L17 - p 50 - L11

Petitioner argue that its too clear to see that Dillon County Sheriff's office was well aware of the potentially exculpatory evidence. But failed to safekeep the evidence for Petitioner's state trial

Which clearly prejudiced the petitioner  
Here, the lost evidence was also crucial  
for Petitioner in having his own ballistics  
expert to review the actual shell casings  
and fragment, to show Petitioner could  
not be the one convicted beyond a  
reasonable doubt of killing Kelvin  
Smalls.

Petitioner showed prejudice by his  
testimony that the 3192 cartridge casing  
was destroyed in bad faith. Which  
could have shown that there were a  
different type of assault weapon fired  
the shot that killed Kelvin Smalls -

that's a 30 caliber gun, not no 7.62.  
which could not be fired from the same  
rifle SEE: App-p 501 L1 - p 502 - L17

Which trial counsel herself testified that she did not hire any ballistics expert, But looking back there were possibility evidence available for her to hire a ballistics expert SEE: App-p 482 L12 - p 483 - L15.

Although, solicitor, Redmond testified that there was only one type of assault rifle type shell SEE: App p 518 L6 - L19. But on cross, solicitor, Redmond did not or could not dispute the fact that there was **TWO** different types of rifle cartridges found at the crime scene SEE: App-p 518 L23 - p 519. Also see Captain, Arnette's trial testimony, where he spoke about the 3192 cartridges casing found at the crime scene SEE: App-p 105 - 109. Here, although the 3192 cartridges

was listed on Dillon County Sheriff's  
Office - crime scene evidence sheet

SEE: Ex. A The 3192 cartridges  
casing was never submitted to SLED  
for testing SEE: Ex. B

Petitioner argue had trial counsel  
made any argument elaborating on ways  
to prove bad faith under existing state  
law or referencing law from other jurisd-  
ictions, there is a reasonable probability the  
outcome of his trial would have been  
different because the State's ballistics  
information would have been suppressed  
SEE: Cherry v State 386 SE2d 624. A  
reasonable probability is a probability  
sufficient to undermine confidence in the  
outcome of the trial SEE: Johnson v State  
480 SE2d 733. Trial counsel's failure to  
do so constitutes prejudicial ineffective  
assistance under the Sixth Amendment

as in Petitioner's case SEE: Strickland v  
Washington 466 U.S. 668.

The P.C.R. court erred, there is no evidence  
of probative value to support the findings  
of the PCR court SEE: Bright v State  
618 S.E2d 296; Magazine v State 606 S.E2d  
761; Holland v State 470 S.E2d 378. Thus,  
petitioner should receive a new trial,

## ARGUMENT (2)

The petitioner argue that the P.C.R court errored in finding, that trial counsel was not ineffective in failing to retain a ballistics expert, when trial counsel herself testified at petitioner's P.C.R hearing..... looking back there were possibility evidence available for her to hire a ballistics expert SEE: App-p 482 L 12 - p 483 - L 15.

Thus, counsel's decision not to call an ballistics expert was not a legitimate sound trial strategy. Which the Petitioner Uebatin re-argue argument (1)

Petitioner further argue, that P.C.R counsel Tristan M. Shatter, was well aware of Petitioner's claims But failed

to move before the court to get the costs and fees for a ballistics expert per. S.C. Code Ann § 17-3-50 and 17-27-60 Also see Martinez v Ryan 132 S Ct. 1309.

Petitioner argue that there is no way he could have call a ballistics expert upon this meritorious claim without the aid of P.C.R. counsel. And, when South Carolina has a recognized prohibition against hybrid representation SEE: State v Cabrera Pena 567 SE2d 472; Dennison v State 639 SE2d 35; State v Stuckey 508 SE2d 564.

Thus, this issue should be remanded back to the P.C.R. court, with a ballistics expert to aid Petitioner upon this claim. Because petitioner showed and trial counsel herself showed the need

to retain an independent expert to review the actual shell casing fragment and the 3192 cartridge casing.

Petitioner further argue that since the State's expert testified up to seven different assault rifles could have fired the fatal bullet. Therefore, the State's expert testimony was not harmful to Petitioner's case in this regard, counsel had no need to retain an independent expert. Thereby, counsel used this testimony to argue the State could not positively identify Petitioner as the shooter, as the P.C.R court ruled SEE: P.C.R ct. order of dismissal - App. p 530 - p 531

Petitioner argue that there is no way he could have been found guilty beyond a reasonable doubt, if trial counsel was not ineffective in failing to retain a ballistics expert. when he has proven prejudice upon this issue.

## ARGUMENT (3)

The Petitioner argue that the P.C.R. court erred in ruling that prosecutorial misconduct was a direct appeal issue, when Petitioner had the burden to prove actual prosecutorial misconduct in his P.C.R. hearing SEE: Alabama v Smith 490 U.S. 799.

Where Petitioner demonstrated the State not only acted in bad faith in losing the evidence, the State INTENTIONALLY lost the evidence in bad faith SEE: App. p 485 L10 - p 486 L10. in the changing of the guards during a highly contested election SEE: Youngblood 488 U.S. at 58.

Which the Petitioner re-argue argument (1) and argument (2). Petitioner

Petitioner further argue that Dillon County Sheriff's office was well aware of the potentially exculpatory evidence But failed to safekeep the evidence for Petitioner's state trial, during a highly contested election SEE: APP-P 485 L10 - p486 - L10..

Petitioner argue that the P.C.R. credibility is stark and clear SEE: Cagle v Branker 520 F3d 320. And there is no evidence of probative value to support the findings SEE: Bright v State 618 SE2d 296; Magazine v State 606 SE2d 761; Holland v State 470 SE2d 378.

Thus, petitioner should receive a new trial.

## ARGUMENT (4)

The Petitioner argue that the P.C.R. court erred in finding he did not prove a due process violation per the 14<sup>th</sup> Amend. of the U.S. and S.C. Courts when he had demonstrated that his conviction without the presence of the physical evidence, "shell casings, fragment, and the 3192 cartridge casing" violated his due process, as he argued at his P.C.R. hearing and above in arguments (1), (2) and (3). Which the Petitioner re-argue.

Petitioner further argue that there

was NO overwhelming guilt, that he caused the victims death, where the lost physical evidence had potentially exculpatory value - showing that there was two (2) assault rifle had been fired before the second round of shots started.

Where it was **UNDISPUTED** that there was two (2) different types of rifle cartridges found at the crime scene SEE: App-p 518 L 23 - p 519.

Here, Captain, Arnette's spoke about the 3192 cartridges casing SEE: App-p 105 - 109.

Petitioner further argue although the 3192 cartridges was listed on Dillon County Sheriff's Office crime

evidence sheet SEE: Ex. A

The 3192 cartridges casing was never submitted to SLED for testing SEE:

Ex. B Also see App-p 501 L1 -

p502 - L17; and App-p 505 L20 - p506 -

L19.

Petitioner also argue that the State's own ballistics expert could not conclusively say what type of gun fired the bullets with any reasonable certainty SEE: App-p 336 L11 - L15 Or what firearm fired these cartridge casings SEE: App-p 329 L14 - L16

Thereby, Petitioner is entitled to a new trial where no rational trier of fact could have found proof of guilt beyond a reasonable doubt

That he caused the victims death (1)

SEE: Jackson v Virginia 99 S. Ct. 2781.

In re Winship 397 U.S. 358

### CONCLUSION

Based on the foregoing arguments counsel's motion to be relieve as Petitioner's counsel should be denied. And, counsel should be ordered to fully brief his issue as well as Petitioner's issues.

Respectfully submitted

Date 3/28/16

Spencer Wiffl

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(1) There was also testimony this girl name Manning was also shot during this shooting SEE: App p 118 L21 - p119 - L4; App 198 L15 - L21 which Petitioner was not charged with her shooting.

#2015-001513

# AFFIDAVIT OF SERVICE

I Jeremy Wright hereby certify that I have served my pro-se brief upon the below Hon. Clerk of Court. By placing the above said into the McCormick Co. on this 28<sup>th</sup> day of March 2016 to be placed in the U.S. mail w/ postage prepaid.  
South Carolina Ct. of S.C.

The Hon. Daniel E. Shearouse, Clerk  
P.O. BOX 11330  
Columbia SC 29211

SWORN to before me at Jeremy Wright  
this 28 day of March 2016

J. Frankler  
Notary Public

my Commission Expires 12-16-2019

**RECEIVED**

MAR 30 2016

STATE OF SOUTH CAROLINA  
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Certiorari to Dillon County  
Eugene C. Griffith, Jr. Cir. Court Judge

S.C. SUPREME COURT

Jeremy Wright

Petitioner

State of South Carolina

Respondent

#2015-001513

DESIGNATION OF MATTER

TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the record on appeal

Ex A crime scene evidence Case<sup>tt</sup> 2007-2184

Ex B 7 page of SLED Laboratory report

I certify that this designation contains no matter is irrelevant to this appeal.

Date 3/28/16

Jeremy D. Wright  
Petitioner

Jeremy Wright

#2015-001513

AFFIDAVIT OF SERVICE

I Jeremy Wright hereby certify that I  
have served my designation of matter upon  
the below Hon. Clerk of Court. By placing the  
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this 28 day of March to be placed in  
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The Hon. Daniel E. Shearouse, Clerk  
P.O. Box 11330  
Columbia SC 29211

SWORN to before me  
this 28 day of March 2016

Jeremy Wright

J. Franklen  
Notary Public

my Commission Expires 12.16.2019

Ex. A

# CRIME SCENE EVIDENCE

CASE# 2007-2184

- #1 CARTRIDGE CASING - 7.62 X 39<sup>1</sup>
- #2 CARTRIDGE CASING - 7.62 X 39<sup>2</sup>
- #3 CARTRIDGE CASING - 7.62 X 39<sup>3</sup>
- #4 CARTRIDGE CASING - 7.62 X 39<sup>4</sup>
- #5 CARTRIDGE CASING - 31 92
- #6 UNFIRED BULLET - 7.62 X 39
- ~~#7 CARTRIDGE CASING - 45 AUTO~~
- #8 CARTRIDGE CASING - 380 AUTO (WINCHESTER)
- #9 CARTRIDGE CASING - 380 AUTO (WINCHESTER)
- #10 CARTRIDGE CASING - 7.62 X 39<sup>5</sup>
- #11 CARTRIDGE CASING - 7.62 X 39<sup>6</sup>
- #12 CARTRIDGE CASING - 7.62 X 39<sup>7</sup>
- #13 CARTRIDGE CASING - 31 92
- #14 CARTRIDGE CASING - 7.62 X 39<sup>8</sup>
  
- #1B CARTRIDGE CASING - 7.62 X 39<sup>9</sup>
- #2B CARTRIDGE CASING - 7.62 X 39<sup>10</sup>
- #3B CARTRIDGE CASING - 7.62 X 39<sup>11</sup>
- #4B CARTRIDGE CASING - 7.62 X 39<sup>12</sup>
- #5B CARTRIDGE CASING - 7.62 X 39<sup>13</sup>
- ~~#6B CARTRIDGE CASING - 45 AUTO~~
- ~~#7B CARTRIDGE CASING - 45 AUTO~~
- ~~#8B CARTRIDGE CASING - 45 AUTO~~
- ~~#9B CARTRIDGE CASING - 45 AUTO~~
- #10B CARTRIDGE CASING - 380 AUTO (WINCHESTER)
- #11B CARTRIDGE CASING - 7.62 X 39<sup>14</sup>
- #12B CARTRIDGE CASING - 380 AUTO (WINCHESTER)
- #13B CARTRIDGE CASING - 31 92
- #14B CARTRIDGE CASING - 7.62 X 39<sup>15</sup>
- #15B CARTRIDGE CASING - 7.62 X 39<sup>16</sup>
- #16B CARTRIDGE CASING - 7.62 X 39<sup>17</sup>
- #17B CARTRIDGE CASING - 9MM LUGER R-PX
- #18B CARTRIDGE CASING - 7.62 X 39<sup>18</sup>
- #19B BROKEN POOL STICK
- ~~#20B CARTRIDGE CASING - 31 92~~ M-1 Cardine?

not unfired

18 casing

32 bullets fired

1 Broken Poolstick

1 not fired

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD  
Governor



MARK A. KEEL  
Interim Chief

*What type  
firearm  
MAY HAVE  
fired*

*COULD  
HAVE  
been fired*

Lt. James Campbell  
Dillon County Sheriff's Office  
P.O. Box 627  
Dillon, SC 29536

*where  
weapons  
common  
readily available  
could*

FIREARMS DEPARTMENT  
January 07, 2008  
SLED LAB: L07-08948  
Your Case No: 20072184  
Incident Date: 6/17/2007  
[S] Jerney Wright  
[V] Kelvin Small

*you can't*

*no firearm  
in comparison*

*What's  
the  
[scribble]*

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.

Mark A. Keel, Interim Chief  
South Carolina Law Enforcement Division

## ITEMS OF EVIDENCE:

Item: 1 One fired 7.62x39mm Soviet caliber cartridge case (Russian headstamp).

### RESULTS:

The microscopic comparison of Item 1 with Items 5-9, 13-21, 27, 29-32, 34, and 35 yielded inconclusive results. Item 1 was not fired by the firearms that fired Items 10-12, 22-26, 28, and 33. Item 1 may be suitable for identification, but was not suitable for entry into the IBIS database.

Item: 2 One unfired 7.62x39mm Soviet caliber cartridge (R-P headstamp).

### RESULTS:

Proper caliber for use in 7.62x39mm Soviet caliber firearms.

Item: 3 Three fired bullet fragments (copper-washed steel jacket, steel core, and lead fragment) from victim.

### RESULTS:

These fragments were most consistent with having been parts of a bullet or bullets loaded in some 7.62x39mm Soviet caliber cartridges manufactured in China, Russia, or other former Communist-bloc countries. Based on the general rifling characteristics, possible makes and/or origins of firearms that may have fired Item 3 include, but may not be limited to, the following: Arsenal (Bulgaria), B-West, China, Czechoslovakia, Maadi (Egypt), Norinco,

*may be other brands*

*What other guns  
could've  
fired*



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 596-7351

*possibly some other firearm*

*could  
other types  
of  
rifling  
be  
modified  
to  
shoot*

*could have been  
fired by  
multiple  
firearms*

*where are the photos*

*Why did you take photos  
of some that not all*

*did all  
evidence  
come in  
at one  
time  
Jays*

*How are  
cartridge  
cases  
loaded  
into  
a  
clip*

- 1) 45
- 2) 380
- 3) 9mm
- 4) 40 one gun
- 5) 13 one gun
- 6) ?

*Semi  
Auto m...*

*could've  
been*

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD  
Governor



MARK A. KEEL  
Interim Chief

Lt. James Campbell  
Dillon County Sheriff's Office  
P.O. Box 627  
Dillon, SC 29536

*Will show  
the bullets are  
altered together  
in a way*

FIREARMS DEPARTMENT  
January 07, 2008  
SLED LAB: L07-08948  
Your Case No: 20072184  
Incident Date: 6/17/2007  
[S] Jerney Wright  
[V] Kelvin Small

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.

Mark A. Keel, Interim Chief  
South Carolina Law Enforcement Division

### ITEMS OF EVIDENCE:

Item: 1 One fired 7.62x39mm Soviet caliber cartridge case (Russian headstamp).

**RESULTS:**  
The microscopic comparison of Item 1 with Items 5-9, 13-21, 27, 29-32, 34, and 35 yielded inconclusive results. Item 1 was not fired by the firearms that fired Items 10-12, 22-26, 28, and 33. Item 1 may be suitable for identification, but was not suitable for entry into the IBIS database.

Item: 2 One unfired 7.62x39mm Soviet caliber cartridge (R-P headstamp).

**RESULTS:**  
Proper caliber for use in 7.62x39mm Soviet caliber firearms.

Item: 3 Three fired bullet fragments (copper-washed steel jacket, steel core, and lead fragment) from victim.

**RESULTS:**  
These fragments were most consistent with having been parts of a bullet or bullets loaded in some 7.62x39mm Soviet caliber cartridges manufactured in China, Russia, or other former Communist-bloc countries. Based on the general rifling characteristics, possible makes and/or origins of firearms that may have fired Item 3 include, but may not be limited to, the following: Arsenal (Bulgaria), B-West, China, Czechoslovakia, Maadi (Egypt), Norinco,

*9 different possible origins countries*

*most consistent - could be others*



①

②

③

④



⑤

⑥

*What about makes how many diff guns ea country?*

Case No. L07-08948  
07, 2008

Page 2 of 6

Russia, Valmet (Finland), and Yugoslavia. *Romania - 10 -*  
The Item 3 bullet jacket may not be suitable for identification due to limited markings. The steel core and lead fragment were unsuitable for identification with a specific firearm. None of these specimens were suitable for entry into the IBIS database.

Blood and body tissue were present on Item 3, but were not collected.

Item: 4 Four photographs.

**RESULTS:**

No examinations conducted.

*Several others*

Item: 5 One fired 7.62x39mm Soviet caliber cartridge case (FC headstamp).

**RESULTS:**

Items 5, 6, 7, and 8 were fired by one firearm. The microscopic comparison of these items with Items 1, 9, 13-21, 27, 29-32, 34, and 35 yielded inconclusive results. Items 5-8 were not fired by the firearms that fired Items 10-12, 22-26, 28, and 33. Items 5-8 may be suitable for identification and may be suitable for entry into the IBIS database.

Item: 6 One fired 7.62x39mm Soviet caliber cartridge case (FC headstamp).

**RESULTS:**

See Item 5 results.

Item: 7 One fired 7.62x39mm Soviet caliber cartridge case (FC headstamp).

**RESULTS:**

See Item 5 results.

Item: 8 One fired 7.62x39mm Soviet caliber cartridge case (FC headstamp).

**RESULTS:**

See Item 5 results.

Item: 9 One fired 7.62x39mm Soviet caliber cartridge case (Chinese headstamp).

**RESULTS:**

The microscopic comparison of Items 9, 16, 29, and 35 with each other and with Items 1, 5-8, 13-15, 17-21, 27, 30-32, and 34 yielded inconclusive results. Items 9, 16, 29, and 35 were not fired by the firearms that fired Items 10-12, 22-26, 28, and 33. Items 9, 16, 29, and 35 may not be suitable for identification or for entry into the IBIS database due to limited markings.

Item: 10 One fired 45 Auto caliber cartridge case (CCI headstamp).

**RESULTS:**

Items 10, 22, 23, 24, and 25 were fired by one firearm. They were not fired by the firearms that fired Items 1, 5-9, 13-21, 27, 29-32, 34, 35, and Items 11, 12, 26, 28, and 33. Items 10, 22, 23, 24, and 25 may be suitable for identification and for entry into the IBIS database.



Processed, Forwarded for Lab Processing



**SLED LABORATORY  
FORENSIC SERVICES REQUEST**

SLED LAB No. L07-08948  
Submission: 2/6/25/2007 10:48:02AM

**Submitted By :**

**Received By :**

Lt. James Campbell

Karonda M. Williams  
Forensic Technician



# SLED LABORATORY FORENSIC SERVICES REQUEST

SLED LAB No. L07-08948  
Submission: 2/6/25/2007 10:48:02AM

SLED ITEM No. LAB ONLY	Agency Item No.	Description of Evidence	Analysis Requested
25		Cartridge cases -	FIREARMS
26		Cartridge cases -	FIREARMS
27		Cartridge cases -	FIREARMS
28		Cartridge cases -	FIREARMS
29		Cartridge cases -	FIREARMS
30		Cartridge cases	FIREARMS
31		Cartridge cases	FIREARMS
32		Cartridge cases	FIREARMS
33		Cartridge cases -	FIREARMS
34		Cartridge cases -	FIREARMS
35		Cartridge cases -	FIREARMS
36		Cartridge cases -	FIREARMS
37		Item - hair from wound from autopsy-victim	TRACE EVIDENCE
38		Item - wound tissue-victim	TRACE EVIDENCE

*Handwritten notes in the table:*  
 - Next to items 25-32: "five bullets" (written vertically)  
 - Next to items 30-32: "possible" (written vertically)  
 - Next to items 33-35: "near we can count that 431" (written horizontally)  
 - Next to item 32: "92" (written as a superscript)

Subject(s)	Sex	Race	DOB	SSN
Jermey Wright	M	B		

Victim(s)	Sex	Race	DOB	SSN
Kelvin D Small	M	B		

**Comments**  
per Joe Powell, send hair and wound tissue to trace, will pickup directly.



*Unfired bullets*

*2 spent rounds*

*37-fired bullets found*

*All together 6/25/07 6/29/07*

# SLED LABORATORY FORENSIC SERVICES REQUEST

SLED LAB No. L07-08948  
Submission: 2 6/25/2007 10:48:02AM

<b>Name of Investigating officer:</b> <u>Lt. James Campbell</u>	<b>ORI No:</b> <u>SC0170000</u>
<b>Agency:</b> <u>Dillon County Sheriff's Office</u> <b>Phone No:</b> <u>843-774-1433</u>	<b>Agency Case No:</b> <u>20072184</u>
<b>Fax No:</b> _____ <b>Email:</b> _____	<b>Offense:</b> <u>HOMICIDE</u>
<b>Mailing Address:</b> <u>P.O. Box 627</u>	<b>County:</b> <u>Dillon</u>
<b>City / State / Zip:</b> <u>Dillon, SC 29536</u>	<b>Offense Date:</b> <u>06/17/2007</u>
<b>CC:</b> _____	<b>Officer Involved Shooting</b> <input type="checkbox"/> Yes
	<b>Rush:</b> <input type="checkbox"/> Yes

Is this evidence related to another lab number?  
 Yes  No  
 If yes, Lab Number: \_\_\_\_\_

SLED ITEM No LAB ONLY	Agency Item No.	Description of Evidence	Analysis Requested
5		Cartridge cases -	FIREARMS
6		Cartridge cases - <i>45</i>	FIREARMS
7		Cartridge cases -	FIREARMS
8		Cartridge cases -	FIREARMS
9		Cartridge cases -	FIREARMS
10		Cartridge cases -	FIREARMS
11		Cartridge cases - <i>380's</i>	FIREARMS
12		Cartridge cases -	FIREARMS
13		Cartridge cases -	FIREARMS
14		Cartridge cases - <i>9mm</i>	FIREARMS
15		Cartridge cases -	FIREARMS
16		Cartridge cases -	FIREARMS
17		Cartridge cases -	FIREARMS
18		Cartridge cases -	FIREARMS
19		Cartridge cases -	FIREARMS
20		Cartridge cases -	FIREARMS
21		Cartridge cases -	FIREARMS
22		Cartridge cases -	FIREARMS
23		Cartridge cases -	FIREARMS
24		Cartridge cases - <i>rifle bullets</i>	FIREARMS