

CHARLTON L. HILL
152778.McCl.F2
386 REDEMPTION WAY
McCORMICK, S.C. 29899

8 NOVEMBER 2016

RECEIVED

NOV 16 2016

S.C. SUPREME COURT

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE, CLERK OF COURT
P.O. BOX 11330
COLA., S.C. 29211

RE: APPELLANTE CASE No.: 2015 - 002428

DEAR CLERK;

PLEASE, FILE THE ENCLOSURES:

- 1) PETITIONER'S PROSE - ISSUE ON APPEAL #1.
- 2) MOTION FOR EXTENSION PURSUANT TO ORDER OF SUPREME COURT, MARCH 18, 2009.

IF ANY OBLIGATORY COPIES MUST BE FORWARDED TO THE ATTORNEY GENERAL'S OFFICE OR OTHERWISE DIRECTED, PETITIONER, PROSE, BEGS THE COURT'S INDULGENCE, RESPECTFULLY REQUESTS ITS ASSISTANCE.
FOR GOOD CAUSE, PLEASE SEE MOTION, #4.

RESPECTFULLY SUBMITTED,

Charlton L. Hill

PETITIONER, PROSE

RECEIVED

NOV 16 2016

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

APPELLANTE CASE No. :
2015-002428

CHARLTON L. HILL,
PETITIONER,

v.

STATE OF SOUTH CAROLINA,
RESPONDENT

AFFIDAVIT OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES THAT THE ORIGINAL OF THE ANDERS BRIEF OF APPELLANTE IN THE ABOVE-REFERENCED CASE HAS BEEN FILED WITH THE SOUTH CAROLINA SUPREME COURT, CLERK OF COURT, P.O. Box 11330, Columbia, S.C. 29211. PETITIONER, PROSE — ISSUE ON APPEAL #1; AND THAT ALL OBLIGATORY COPIES TO BE SERVED REQUESTED, RESPECTFULLY FROM DANIEL F. SHEAROUSE, CLERK, THIS 9TH DAY OF NOVEMBER, 2016.

Charlton L. Hill

PETITIONER PROSE

SUBSCRIBED & SWORN
BEFORE ME THIS 10th

DAY OF NOVEMBER, 2016.

Michael Camore
(L.S.)

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: July 09, 2026

STATE OF SOUTH CAROLINA

RECEIVED

NOV 16 2016

IN THE SUPREME COURT

S.C. SUPREME COURT

CHARLTON L. HILL,
PETITIONER,
PRO SE,

V.

STATE OF SOUTH CAROLINA,
RESPONDENT.

APPELLATE CASE No. :
2015 - 002428

MOTION FOR EXTENSION OF TIME
PURSUANT TO ORDER OF
SUPREME COURT, 3-18-09.

COMES NOW, THE PETITIONER, REQUESTING AN EXTENSION TO SERVE AND FILE THE PRO SE RESPONSE TO WHITE V. STATE AUDERS BRIEF AND THE PETITION FOR WRIT OF CERTIORARI.

GOOD CAUSE FOR REQUESTED EXTENSION IS AS FOLLOWS :

- 1) Mc CORMICK CORR. INST., UNIT F-2 (PETITIONER'S HOUSING UNIT), IS A VIOLENT AND CHAOTIC ENVIRONMENT. WHEREAS, FOR ONE SECURITY REASON OR ANOTHER IT IS CONSISTANTLY ON LOCKDOWN STATUS WITHOUT BENEFIT OF THE LAW LIBRARY OR ACCESS TO THE MAIL ROOM!
- 2) THERE ARE ONLY A LIMITED NUMBER OF "COURT DEADLINE" SLOTS THAT ARE AVAILABLE AT Mc CI. PETITIONER WAS ONLY ISSUED AN "ORDER TO REPORT" ON 11-7-16 — ONE (1) WEEK BEFORE THE ABOVE-NAMED-CASE'S DEADLINE.
- 3) LAW LIBRARY SUPERVISOR, CORPORAL MORTON, WILL ONLY PHOTO-COPY LEGAL DOCUMENTS NOT HANDWRITTEN. THUS, I AM HAND GENERATING THESE DOCUMENTS AND PRESUMABLY ALL NEEDED COPIES.
- 4) ENCLOSED HEREWITH IS "ISSUE ON APPEAL" #1, PRO SE: CHAIN OF CUSTODY. AS I DO NOT HAVE TIME BEFORE THE DEADLINE TO HANDWRITE A COPY OF THESE DOCUMENTS FOR THE ATTORNEY GENERAL'S OFFICE, IF I AM SO OBLIGATED, PETITIONER, PRO SE, REQUESTS THAT A CLOCKED-COPY BE RETURNED TO HIM, AND ANY OBLIGATORY COPIES BE FORWARDED AT THE CLERK OF COURT'S CONVENIENCE.

Charlton L. Hill

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM DARLINGTON COUNTY

HONORABLE THOMAS A. RUSSO, CIRCUIT COURT JUDGE

CHARLTON L. HILL,
v.
STATE OF SOUTH CAROLINA,

PETITIONER,

RESPONDENT.

APPELLATE CASE NUMBER 2015-002428

ANDERS BRIEF OF APPELLANT PURSUANT TO
WHITE V. STATE

CHARLTON LEFATE HILL
PETITIONER PRO SE

MCC 1-F2
386 REDEMPTION WAY
MC CORMICK, SC. 29899

TABLE OF AUTHORITIES

CASES

STATE V. HATCHER, 708 S.E. 2ND 756, 384 S.C. 86

RULES

RULE 6, SC RULES OF CRIMINAL PROCEDURE.

STATEMENT OF ISSUE ON APPEAL

DID TRIAL COURT ERR IN ADMITTING STATE'S EXHIBIT 124, WHICH WAS TOXICOLOGIST'S REPORT, OVER OBJECTION BY TRIAL COUNSEL, BASED ON INTERSTICES IN THE CHAIN OF CUSTODY, PURSUANT TO RULE 6, SCRCP?

STATEMENT OF THE CASE

In September 2010, the Darlington County Grand Jury indicted Charlton Hill on the charges of felony driving under the influence with death resulting; and driving under suspension (DUS). In April 2011, the Darlington County Grand Jury indicted Hill on the charges of failure to stop for a blue light with death resulting (FTSBL); reckless homicide; and involuntary manslaughter. App. 589-App. 614. On April 13, 2011, Hill proceeded to trial before the Honorable J. Michael Baxley and a jury. Hill was represented by Emily Crayton and Matthew S. Swilley. The state was represented by John Holt, Kendall Burch, and Patti McKenzie-Parker. App. 1. The jury found Hill guilty of all charges as indicted. App. 323, ll. 1-25. The judge sentenced Hill to twenty-five years on the felony DUI with death; to ten years on the reckless homicide; and five years on the involuntary manslaughter. These sentences were to run concurrent. The judge then sentenced Hill to ten years on the FTSBL with death to run consecutive to the other charges. App. 341, ll. 8 – App. 343, ll. 23.

Hill's trial attorney filed a notice of appeal which was dismissed by the South Carolina Court of Appeals on May 24, 2012 as untimely. It was filed one day late. App. 590; App. 403-App. 406.

On March 25, 2013, Petitioner Hill filed an application for post-conviction relief (PCR). The state filed a return on April 1, 2014. An evidentiary hearing was held on July 27, 2015 before the Honorable Thomas A. Russo. Hill was represented by Tristan Shaffer, and the state was represented by Joshua L. Thomas. App. 511.

At the PCR hearing, Hill's PCR attorney asked the court for a belated appeal pursuant to White v. State, 263 S.C. 110, 118, 208 S.E.2d 35, 39 (1974) because the notice of appeal was filed one day late. The state did not object. App. 514, ll. 25 – App. 515, ll. 25.

On October 7, 2015, Judge Russo issued an order granting Hill a belated direct appeal review pursuant to White v. State, id. The judge denied the PCR application otherwise and dismissed it with prejudice. App. 589 – App. 599.

This brief is submitted pursuant to White v. State, supra, accompanied by a petition for a writ of certiorari.

BELATED APPEAL ISSUE 1-A

A) MOTION TO SUPPRESS BLOOD TEST ANALYSES RESULTS, 2010-GS-16-1335, et. al., SUBMITTED BY AND THROUGH TRIAL COUNSEL, PURSUANT TO RULE 6 SCRPC, CHALLENGING THE ACCORD AND THEREBY THE VALIDITY OF SAID RESULTS, BASED ON INTERSTICES AND HOLES IN THE CHAIN OF CUSTODY; AND RULED UPON BY THE HONORABLE COURT AT PAGE 75, LINES 17-25, PAGE 76, LINE 1, AGAIN AT PAGE 217, LINES 10-21 OF THE TRIAL TRANSCRIPT.

FACTS

MOTION-SUPPRESS CHAIN OF CUSTODY

THE COURT: ALL RIGHT. CHAIN OF CUSTODY. JUST TELL ME WHAT IT IS THAT YOU HAVE WITH REGARD TO CHAIN OF CUSTODY. WHAT EVIDENCE DO YOU INTEND TO PRODUCE, AND THEN WE WILL GO BACK TO MR. SWILLEY TO HEAR WHAT HE BELIEVES THE PROBLEM WITH IT MAY BE.

MR. HOLT: THANK YOU VERY MUCH, JUDGE. WE ARE GOING TO HAVE MARLA KOONTZ FROM CAROLINA PINES HOSPITAL, WHO TOOK THE BLOOD, SEALED THE BLOOD, AND THEN GAVE IT TO OFFICER PAT LEE OVER THERE WHO WAS WATCHING THE ENTIRE TIME. OFFICER RUSS HARRELL, EVIDENCE CUSTODIAN WITH DARLINGTON COUNTY SHERIFFS OFFICE COMES TO THE HOSPITAL COLLECTS THE BLOOD FROM PAT LEE THERE,

AND RETURNS THE BLOOD TO DARLINGTON COUNTY SHERIFF'S OFFICE TO A REFRIGERATOR. THEN, SOME DAYS LATER, RUSS HARRELL IS RESPONSIBLE FOR THAT EVIDENCE THE ENTIRE TIME, TAKES IT TO SLED WHERE IT IS ANALYZED BY A JENNIFER BROWN. I AM GOING TO HAVE ALL OF THOSE PEOPLE COME AND TESTIFY TO THE CHAIN, YOUR HONOR. I HAVE READ, AS I AM SURE YOUR HONOR AND MR. SWILLEY HAVE THE MOST RECENT CASE ON THIS FROM THE SUPREME COURT, I BELIEVE IS THE HATCHER CASE. I THINK WE COMPLY COMPLETELY WITH HATCHER. I DON'T REALLY UNDERSTAND AT THIS TIME WHERE THE PROBLEM IS.

THE COURT: VERY GOOD. WHAT IS YOUR COMPLAINT, HAVING LOOKED AT THE EVIDENCE, MR. SWILLEY, WHAT IS YOUR COMPLAINT ABOUT THE CHAIN OF CUSTODY?

MR. SWILLEY: YOUR HONOR, I BELIEVE THAT ONCE IT GETS TO SLED, TRANSPORTED BY MR. HARRELL, WHO IS THE EVIDENCE CUSTODIAN, I DO THINK THERE ARE SOME INTERSTICES AS TO WHEN IT GETS TO SLED, IF IT WAS DIRECTLY GIVEN TO MS. BROWN, WHO THEN ANALYZED IT IN AND OF HERSELF. WHETHER OR NOT SHE MAY HAVE GIVEN IT TO ANY OTHER SLED PERSONNEL, I THINK MAY BE AT ISSUE HERE.

AS YOUR HONOR KNOWS ALL CHEMICAL ANALYSIS FOR CRIMINAL MATTERS, I DO BELIEVE DO GO TO SLED TO BE ANALYZED. THAT IS THE ENTITY FOR WHICH DOES THIS, YOUR HONOR. I BELIEVE THERE MAY BE SOME INTERSTICES

IN THE CHAIN ONCE IT GETS TO SLED, AND THAT IS WHAT I AM CHALLENGING FROM THE STATE AT THIS TIME.

THE COURT: WHAT EVIDENCE DO YOU HAVE THAT THERE ARE SOME MISSING PERSONS WITHIN THE CHAIN?

MR. SWILLEY: BEG THE COURT'S INDULGENCE FOR JUST, ONE MOMENT? (PAUSE)

MR. SWILLEY: YOUR HONOR, I DON'T HAVE THE EVIDENCE FOR WHAT MR. HOLT SAYS AS TO CHAIN. I DON'T QUESTION THE VERACITY OF WHAT HE SAID. YOUR HONOR, HOWEVER, I DO THINK THAT MAYBE WHEN MR. HARRELL, IF AND WHEN HE DID TAKE IT TO SLED AND GIVE IT TO MS. BROWN THAT THERE WOULD BE OTHER PEOPLE THAT WOULD BE INVOLVED IN THIS PROCEDURE FOR TESTING THE BLOOD OF BOTH THE DECEDENT AND THE DEFENDANT FOR SUBSTANCES THAT THEY WERE LOOKING FOR. SO, YOUR HONOR, I WOULD JUST CONTEND THAT THERE ARE HOLES OR INTERSTICES AT THIS JUNCTURE IN THE CHAIN OF CUSTODY.

THE COURT: ALL RIGHT. AND WHAT IS YOUR WITNESS GOING TO TESTIFY TO, MR. HOLT, ABOUT WHAT HAPPENS ONCE MR. HARRELL DELIVERS THAT PACKAGE TO SLED, PUTS IT IN THE EVIDENCE BOX, WHAT HAPPENS TO IT?

MR. HOLT: YOUR HONOR, SHE WILL TESTIFY ABOUT HOW THE EVIDENCE WILL PROBABLY BE SEALED THERE. I KNOW FOR A FACT, AND MS. KOONTZ WILL TESTIFY TO HOW SHE SEALED THE BAGGAGE AT THE HOSPITAL. MS. BROWN

WILL PROBABLY GIVE THE TYPICAL SLED PROCEDURES FOR HOW THE EVIDENCE IS HANDLED. ASSIGNED A CASE NUMBER, A BAR CODE, SCANNER, HOW THE SCANNER IS USED ANYTIME THAT EVIDENCE IS TRANSPORTED. THIS TYPE OF EVIDENCE IS BOTH BIO-HAZARD AND SOMETHING THAT NEEDS TO BE REFRIGERATED. SO, I AM SURE SHE WILL TESTIFY TO THE SPECIFIC LOCATION AT SLED FOR WHERE IT IS KEPT. JUDGE, I THINK WE AREN'T REALLY GOING TO HAVE A PROBLEM. I ACTUALLY WANT TO QUOTE SOME OF THE LAW --- I AM ONLY AS FAR AS --- THE STATE ONLY HAS TO PRODUCE THE CHAIN AS FAR AS PRACTICAL AND IT IS OBVIOUS, YOUR HONOR. BUT, WE DON'T NEED TO GET EACH AND EVERY SINGLE PERSON AT SLED. AND I THINK THERE IS A DIRECT QUOTE IN THE CASE --- I CAN'T THINK WHO MAY OR MAY NOT HAVE TESTIFIED, OR TOUCHED THE EVIDENCE IN SOME INSIGNIFICANT WAY. I THINK IF I CAN, ESTABLISH MY POLICY THROUGH MS. BROWN IF I CAN ESTABLISH THAT THE EVIDENCE WAS SEALED, IF I CAN ESTABLISH HOW MS. BROWN CHECKED THE EVIDENCE AND DOUBLE CHECKED IT, AND WHO BACKED UP HER WORK, I DON'T THINK THAT THE STATE NEEDS TO PRODUCE ANYBODY ELSE.

THE COURT: IS MS. BROWN HERE TODAY?

MR. HOLT: SHE IS NOT, YOUR HONOR.

THE COURT: VERY GOOD. MR. SWILLEY, THE COURT WILL DECLINE BASED ON WHAT I HAVE HEARD FROM THE STATE AS AN INITIAL IMPRESSION, IT SOUNDS THAT THERE IS SUFFICIENT EVIDENCE TO ESTABLISH THE CHAIN

BOTH EXTERNAL AND INTERNAL TO SLED THAT WOULD BE SUFFICIENT FOR ADMISSION TO TRIAL. THE COURT DECLINES TO GRANT RELIEF AT THIS TIME. BUT AFTER YOU HAVE QUESTIONED THE WITNESSES DURING THE COURSE OF THE TRIAL, IF THERE IS SOME ISSUE ABOUT THE CHAIN THAT WOULD COME OUT BEFORE THE ANALYSIS OF IT WOULD BE, AND WE WOULD AT THAT TIME TAKE IT UP.

MR. SWILLEY: THANK YOU, YOUR HONOR.

SEE TRIAL TRANSCRIPT, PAGE 72, LINES 10-25, PAGE 73, LINES 1-25, PAGE 74, LINES 1-25, PAGE 75, LINES 1-25, PAGE 76, LINES 1 AND 2.

JENNIFER G. BROWN -- DIRECT EXAMINATION

MR. HOLT: YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE TO HAVE HER REPORT ADMITTED INTO EVIDENCE AS STATE EXHIBIT NUMBER 124.

THE COURT: WHAT SAYS THE DEFENSE?

MR. SWILLEY: YOUR HONOR, I DON'T BELIEVE THE OFFICIAL LINK OF CHAIN OF CUSTODY HAS BEEN ESTABLISHED UNDER RULE 6. I DON'T BELIEVE THAT SHE TESTIFIED THAT SHE GOT --- FROM WHOM SHE GOT THE SAMPLE FROM.

THE COURT: OKAY. SUSTAINED.

Q. NOW, WITHOUT TALKING ABOUT THIS, AND WE ARE GOING TO SUM THIS UP REAL QUICK. LET ME ASK YOU THIS. YOU ARE A TOXICOLOGIST?

A. CORRECT.

Q. DO LAW ENFORCEMENT OFFICERS JUST BRING YOU STUFF, AND YOU JUST

TAKE IT AND KEEP IT, AND WORK ON IT? HOW DOES THE PROCESS WORK AT SOUTH CAROLINA LAW ENFORCEMENT DIVISION?

A. NO, OFFICERS CAN'T DIRECTLY LEAVE ME EVIDENCE. THEY BRING IT TO OUR LOG-IN DEPARTMENT. AND IT IS GENERALLY NOT A BUNCH OF OFFICERS. IT IS USUALLY THE SUBMITTING OFFICER, WHICH CAN BE THE OFFICER THAT GOT THE SAMPLE, OR IT CAN BE A COLLECTION TYPE OF PERSON. THEY BRING IT TO OUR LOG-IN DEPARTMENT WHICH IS ON OUR FIRST FLOOR. AND THERE IS PAPERWORK THAT GOES ALONG WITH IT. AND IT IS GIVEN INTO AN EVIDENCE BAG. IT IS GIVEN A UNIQUE BAR-CODE IDENTIFIER, SO EVERY CASE IS A DIFFERENT NUMBER. AND SO, THAT IS HOW WE TRACK OUR EVIDENCE THROUGH THE SYSTEM.

Q. NOW, SPECIFICALLY IN THIS CASE, EARLIER THE JURY HEARD TESTIMONY THAT RUSS HARRELL DEPOSITED THE BLOOD SAMPLES AT SLED. CAN YOU TELL ME WHO HE GAVE IT TO?

A. YES. HE GAVE IT TO OUR LOG-IN TECHNICIAN, WHO IS NIEKI PERRY. 4

Q. AND FOLLOWING FROM THERE, CAN YOU TELL ME WHAT HAPPENS WITH THE BLOOD?

A. YES. FROM THERE, THE BLOOD WENT INTO THE TOXICOLOGY EVIDENCE INTAKE STORAGE, WHICH IS IN OUR LOG-IN DEPARTMENT. FROM THERE IT WAS PICKED UP BY PATRICIA COOK, SHE IS ALSO A LOG-IN TECHNICIAN. SO, SHE IS GOING TO GIVE THE EVIDENCE TO A TECHNICIAN FROM MY DEPARTMENT IN TOXICOLOGY. AND FROM THERE IT WAS PHOTOGRAPHED FOR OUR PURPOSES FOLLOWING THE OUTER CONTAINER ALL THE WAY DOWN TO THE EVIDENCE. 5 6

AND THEN FROM THERE IT WAS PUT INTO OUR TOXICOLOGY REFRIGERATOR. ONLY TOXICOLOGISTS AND A FEW OTHER HIGHER-UPS IN OUR SLED ARE ABLE TO ACCESS THAT. WE ALL HAVE A CHINA KEYBOARD, AND SO WE SWIPE IT, AND IF YOU ARE NOT IN OUR DEPARTMENT, IT DOESN'T OPEN.

Q. NOW, THROUGHOUT THIS PROCESS WHERE THE BLOOD GOES FROM NIKKI PERRY ON UP TO YOU, ARE PHOTOGRAPHS TAKEN OF IT?

A. ONCE IT GETS TO OUR DEPARTMENT IT IS. BUT WE ALL HAVE A BARCODE. AND ONCE IT GOES SPECIFICALLY TO THAT EVIDENCE TO EVERYTHING. SO EVERYTHING IS BAR CODED, SO YOU CAN'T JUST SCAN SOMEONE ELSE'S BARCODE AND PRETEND LIKE THEY DID IT. IT IS VERY PRECISE.

Q. AND DOES THE EVIDENCE REMAIN SEALED EVERY TIME IT PASSES HANDS?

A. IT REMAINS SEALED, YES.

Q. OKAY. AND, WHEN RUSS HARRELL GAVE IT TO NIKKI PERRY, AND EVENTUALLY MADE ITS WAY TO YOU, WAS IT LABELED THE ENTIRE TIME?

A. YES.

MR. HOLT: ALL RIGHT. YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE TO ADMIT, I BELIEVE IT IS 124.

THE COURT: ALL RIGHT. IS THERE AN OBJECTION?

MR. SWILLEY: YES, YOUR HONOR. I STILL DON'T BELIEVE IN THE RECORD THERE HAS BEEN TESTIMONY PROFFERED THAT WOULD SATISFY A CHAIN OF CUSTODY UNDER RULE 6, AS FAR AS THE IDENTITY OF THOSE THAT HANDLED THE SUBSTANCE. AS FAR AS PRACTICAL, I DON'T BELIEVE THE WITNESS HAS TESTIFIED FROM WHOM

SHE ACTUALLY GOT THE SAMPLE, WHEN AND WHERE, I BELIEVE.

THE COURT: ALL RIGHT. THE OBJECTION IS OVER-RULED. THE COURT FINDS THAT THE REQUIREMENT FOR THE RULE HAS BEEN MET. YOU MAY QUESTION THE WITNESS ABOUT THAT, IF YOU WISH ON CROSS EXAMINATION. BUT THE OBJECTION IS OVERRULED. LET'S MAKE 124 IN EVIDENCE OVER OBJECTION. SO NOTED, YOU MAY PROCEED.

WHEREUPON, STATE'S EXHIBIT 124 IS MARKED AND ADMITTED INTO EVIDENCE OVER OBJECTION. SEE TRIAL TRANSCRIPT, PAGE 214, LINES 13-15, PAGE 215, LINES 1-25, PAGE 217, LINES 1-21.

STATE BAR
ROOM 1111

ARGUMENT

THE TRIAL COURT ERRED IN ADMITTING STATE'S EXHIBIT 124, WHICH WAS TOXICOLOGIST'S REPORT, OVER OBJECTION BY TRIAL COUNSEL, BASED ON INTERSTICES IN THE CHAIN OF CUSTODY, PURSUANT TO RULE 6, SCRCP.

ON APRIL 13, 2011, PETITIONER'S FIRST DAY OF TRIAL, THE PROSECUTION STATED, "...RUSS HARRELL IS RESPONSIBLE FOR THE EVIDENCE THE ENTIRE TIME, TAKES IT TO SLED WHERE IT IS ANALYZED BY A JENNIFER BROWN. I AM GOING TO HAVE ALL OF THOSE PEOPLE COME AND TESTIFY TO THE CHAIN, ... TRIAL TRANSCRIPT, PAGES 72-73.

ON PETITIONER'S SECOND DAY OF TRIAL, DURING CROSS-EXAMINATION OF RUSS HARRELL, TRIAL COUNSEL ASKED "AND MR. HARRELL, WHO DID YOU GET A VIAL OF MR. HILL'S BLOOD, TAKEN FROM HIS PERSON, AT SLED? TO WHICH, MR. HARRELL REPLIED, "THAT WOULD BE SELENA BROWN. EXCUSE ME, HOLD ON, LET ME CHECK. NIKKI BERRY. TRIAL COUNSEL THEN ASKED, "AND YOU KNOW THAT BY EXAMINING YOUR PAST RECOLLECTION?" TO WHICH MR. HARRELL SAID, "NO, ITS FROM THE SUBMISSION FORM." TRIAL TRANSCRIPT, PAGE 191.

PLEASE SEE A "SLED LABORATORY FORENSIC SERVICES REQUEST" ATTACHED, PETITIONER'S EXHIBIT #1, PCR TRANSCRIPT, VOL II, PAGE 584. ON WHICH, THE DELIVERING OFFICER IS NEITHER NAMED NOR UNDERSIGNED. *THIS BEING THE FIRST INTERSTICE IN THE OFFICIAL CHAIN OF CUSTODY.

ALSO, ON THE SECOND DAY OF TRIAL, JENNIFER BROWN STATES, THAT RUSS HARRELL GAVE THE BLOOD SAMPLES TO NIKKI PERRY. "FROM THERE IT IS PICKED UP BY PATRICIA COOK, SO, SHE IS GOING TO GIVE THE EVIDENCE TO A TECHNICIAN FROM MY DEPARTMENT..." TRIAL TRANSCRIPT, PAGE 215-216.

PATRICIA COOK IS NOT PRESENT AT TRIAL TO PROFFER TESTIMONY, NOR IS A DEPOSITION PRESENTED AT TRIAL SPECIFYING AS TO HOW SHE HANDLED THE EVIDENCE OR TO WHOM SHE MAY HAVE GIVEN IT TO.

* THIS BEING THE SECOND INTERSTICE IN THE OFFICIAL CHAIN OF CUSTODY. WHO PATRICIA COOK GAVE THE SAMPLE TO IS UNNAMED, ONLY REFERRED TO AS "A TECHNICIAN FROM MY DEPARTMENT..." THIS ANONYMOUS PERSON IS NEITHER IDENTIFIED FOR THE RECORD, NOR PRESENT AT TRIAL TO DEMONSTRATE AS TO THE MANNER OF HANDLING THE SAMPLE.

* THIS BEING THE THIRD INTERSTICE IN THE OFFICIAL CHAIN OF CUSTODY.

PLEASE, NOTE THAT RUSS HARRELL TESTIFIES THAT HE GOT THE SAMPLE FROM NIKI BERRY. TRIAL TRANSCRIPT, PAGE 191.

AND, ON THE SAME DAY, JENNIFER BROWN TESTIFIES THAT SHE GOT THE BLOOD SAMPLES FROM NIKKI PERRY. TRIAL TRANSCRIPT, PAGES 215-216. I.E. N-I-K-I B-E-R-R-Y VS. N-I-K-K-I P-E-R-R-Y:

THIS COULD BE A DOUBLE-TYPOGRAPHICAL ERROR OR TWO SEPERATE PEOPLE COULD HAVE BEEN CALLED INTO REFERENCE. THEIR IDENTITIES ARE ULTIMATELY LEFT TO CONJECTURE.

* THIS BEING A FORTH POSSIBLE INTERSTICE IN THE CHAIN OF CUSTODY.

AND, ON THE SAME DAY, UNDER DIRECT EXAMINATION, JENNIFER BROWN TESTIFIES THAT SHE GOT THE BLOOD IN QUESTION OUT OF A TOXICOLOGY REFRIGERATOR. THAT IT WAS PUT IN THE REFRIGERATOR BY A TONI BROOME. THERE IS NO TESTIMONY OR DOCUMENTARY EVIDENCE ABOUT HOW THE BLOOD SAMPLES WERE HANDLED WHILE IN TONI BROOME'S CUSTODY OTHER THAN MS. BROWN'S AFFIRMATIVE ANSWER TO TRIAL COUNSEL'S QUESTION: "IS THIS FOR A DIFFERENT SUBSTANCE THAT THEY MAY BE TESTING FOR?" MS. BROWN FURTHER STATES THAT BRANDON LANDRUM ALSO HANDLED THE SAMPLES BEFORE TONI BROOME. TRIAL TRANSCRIPT, PAGES 225-226.

PETITIONER CONTENDS THAT AS MANY AS SIX (6) JOINT-CUSTODIANS (SLED LABORATORY TECHNICIANS) HANDLED THE SAMPLES IN A SIGNIFICANT WAY, AND ONLY ONE (1), MS. BROWN, PROFFERED DETAILS ABOUT HOW THE EVIDENCE WAS HANDLED * THESE BEING THE FIFTH & SIXTH INTERSTICES IN THE CHAIN.

STATE V. HATCHER, 708 S.E. 2ND 756, 392 S.C. 86:

4 CRIMINAL LAW KEY CHAIN OF CUSTODY:

FOR PURPOSES OF ESTABLISHING A CHAIN OF CUSTODY FOR FUNGIBLE EVIDENCE, WHERE THE SUBSTANCE ANALYZED HAS PASSED THRU SEVERAL HANDS, THE EVIDENCE MUST NOT LEAVE IT TO CONJECTURE AS TO WHO HAD IT AND WHAT WAS DONE WITH IT BETWEEN THE TAKING OF THE ANALYSIS.

9 CRIMINAL LAW KEY CHAIN OF CUSTODY:

THE TRIAL JUDGE EXERCISE OF DISCRETION, FOR PURPOSES OF DETERMINING WHETHER CHAIN OF CUSTODY OF FUNGIBLE EVIDENCE WAS SUFFICIENT TO PERMIT ADMISSIBILITY, MUST BE REVIEWED IN THE LIGHT OF THE NATURE OF THE ARTICLE, THE CIRCUMSTANCES SURROUNDING THE PRESERVATION AND CUSTODY OF IT, AND THE LIKELIHOOD OF INTERMEDDLERS TAMPERING WITH IT.

III Law & Analysis

7 IN FINDING THE CHAIN OF CUSTODY INSUFFICIENT IN HATCHER'S CASE, THE COURT OF APPEALS STATED THAT, "OFFICER LOCKLEAR AND SLED AGENT WILSON BOTH ACTED AS CUSTODIANS OF THE EVIDENCE," BUT NEITHER IS DIRECTLY LINKED TO THE OTHER BY TESTIMONY OR DOCUMENTARY EVIDENCE. SPECIFICALLY, THE COURT STATED THAT THE PERSON WHO RECEIVED THE EVIDENCE AT SLED IS NOT PERSONALLY IDENTIFIED AND THERE WERE NO DETAILS PRESENTED ABOUT HOW THE EVIDENCE WAS HANDLED WHILE IN OFFICER LOCKLEAR'S POSSESSION OR ONCE IT WAS SURRENDERED AT SLED.

THE COURT OF APPEALS ACKNOWLEDGES THAT SC CASE LAW PROVIDES THAT THE CHAIN OF CUSTODY NEED NOT BE ESTABLISHED ONLY "AS FAR AS REASONABLY PRACTICABLE" AND THAT EACH PERSON WHO HANDLED THE EVIDENCE IS NOT REQUIRED TO TESTIFY, BUT NEVERTHELESS STATED THAT "SOUTH CAROLINA COURTS HAVE CONSISTANTLY HELD THAT ALL PERSONS IN THE CHAIN OF CUSTODY MUST BE IDENTIFIED AND THE MANNER OF HANDLING THE EVIDENCE MUST BE DEMONSTRATED." Id. at 377, 681 SE 2d 928



SLED LABORATORY FORENSIC SERVICES REQUEST

(Use ballpoint pen and press firmly. Print all information except where signature is required.)

13CP100208

FORM LAB-003
NOVEMBER 1993
Previous Editions
May Be Used

Name of Investigating Officer: Patrick Lee Rank: Sgt
 Department: Dorchester County Sheriff's Office Telephone Number: 843-378-4501
 Street Address or Post Office Box: P.O. B. 783
 City: Dorchester State: SC Zip Code: 29540
 Sled Lab No. _____
 Contributing Agency ORI SC: 01160000
 Contributing Agency Case No.: 201901-0201
 County: Dorchester
 Incident Date: 01-08-2010
 Related Lab No. _____

Subject # 1 Victim# _____ Sex: M F _____ SID/FBI
 Last Name: Hill First Name: Charles Middle Name: Little DL/SS NO: 005080720
 Race: Cau Blk _____ Other _____
 DOB: 5-4-1962

Subject # _____ Victim# _____ Sex: M _____ F _____ SID/FBI
 Last Name _____ First Name _____ Middle Name _____ DL/SS NO: _____
 Race: Cau _____ Blk _____ Other _____
 DOB: _____

Subject # _____ Victim# _____ Sex: M _____ F _____ SID/FBI
 Last Name _____ First Name _____ Middle Name _____ DL/SS NO: _____
 Race: Cau _____ Blk _____ Other _____
 DOB: _____

Subject # _____ Victim# _____ Sex: M _____ F _____ SID/FBI
 Last Name _____ First Name _____ Middle Name _____ DL/SS NO: _____
 Race: Cau _____ Blk _____ Other _____
 DOB: _____

*Could any subjects or victims have the following: (circle) AIDS VD Hepatitis Tetanus TB Lice
 Comments: _____

COMPLETE THIS SECTION ON ALL CASES: (Circle Appropriately)
 Homicide Suicide Accidental Death Natural Death Child Fatality Autopsy Performed: Yes No
 (A) Gunshot (B) Stabbing (C) Beating (D) Strangulation (E) Drug/Poison (F) Alcohol (G) Carbon Monoxide (H) Fire (I) Hanging (J) Electrocution
 (K) Heart Related (L) Disease (M) Other _____
 Accident Fatality Victim: (A) Driver (B) Pedestrian (C) Motorcyclist (D) Bicyclist (E) Passenger (F) Swimming/Boating
 TYPE OF CASE: (IF NOT DEATH) (A) Drugs (B) CSC (C) Burglary (D) Larceny (E) Other _____

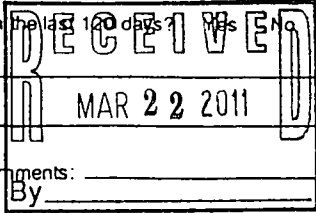
FOR TOXICOLOGY CASES: (Circle Appropriately)
 DUI Felony DUI Was a Breath Test given? Yes No _____ If Yes, Reading _____
 Number of Specimens Enclosed: Blood 2 Urine 1 Ocular Fluid _____ Other _____
 Examination Requested: Blood Alcohol Drug Screen CO Blood Type Other _____
 Drugs Suspected: Yes No List Drugs: Marijuana - Bupropion - Cocaine

FOR SEROLOGY/ DNA/HAIR/FIBER CASES: (Circle Appropriately)
 Was the subject(s) bleeding? Yes No Unknown Have any of the victims / subjects been transfused in the last 100 days? Yes No Unknown
 Crime occurred: Suspect's residence Victim's residence Suspect's vehicle Victim's vehicle Other _____
 Was a weapon involved? Yes No Unknown Type of weapon? _____
 Have standards from all possible bleeders or body fluid donors been submitted? Yes No Unknown Comments: _____
 By: _____

Submission of victim and suspect standards is necessary before complete analysis can be performed.

THE ITEMS SUBMITTED WILL BE EXAMINED WITH YOUR ASSURANCE THAT THE SUBMITTED SPECIMENS HAVE NOT NOR WILL BE SUBMITTED TO ANY OTHER LABORATORY FOR TECHNICAL OR SCIENTIFIC EXAMINATION. THIS STATEMENT WAS READ BY OFFICER.

Print Name of Delivering Officer: _____ Signature of Delivering Officer: 16.



ALSO: PETITIONER'S EXHIBIT #1 - PAGE 584 PCK TRANSCRIPT VOL II

CONCLUSION

BASED ON THE ABOVE, THE CONVICTION AND SENTENCES SHOULD BE REVERSED, AND THE CASE REMANDED FOR A NEW TRIAL.

Charlton L. Hill
PETITIONER PRO SE

THIS 8TH DAY OF NOVEMBER, 2016.

CHARLTON HILL 159778
MCGI F2

McGormick Correctional Inst.
386 Redemption Way
McGormick, SC 29359

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