

The Supreme Court of
South Carolina.

James Michael Lucas
Petitioner

Vs.

State of South Carolina
Respondent

State of South Carolina in the
Supreme Court.

Appellate Case No. 2019-000817

Petition For Writ of
Certiorari.

Applicant James Michael Lucas filed a Post-Conviction relief on December 1, 2015. On March 6, 2017 the State filed a return and moved to dismiss the action on several grounds. A hearing was held on August 7, 2017. The Petitioner was allowed to explain his case to the Court. The Court told Petitioner that it would get back to him. April 24, 2019 the Court dismissed Petitioner's case.

This issue comes from the prosecution being allowed to alter/amend the original indictment, more than one year after the initial "True Billing". I have attempted to locate any Motion to Amend, (see; S.C. Code Ann. §17-19-100), but have not been able to discover any information that would demonstrate the prosecution sought leave of the trial court to enhance or amend the original indictment.

I am of an understanding that, trial counsel was in a position in which to challenge the indictment, especially where the new indictment that changed the original offense, and making the original charge more different than the original indictment.

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S.C. SUPREME COURT

With this in mind, I believe that such would place the courts jurisdiction in serious jeopardy. The amendment changed an indictment for Involuntary Manslaughter (with reckless disregard for the safety of others, did shoot and kill the victim .. §16-3-60), to Murder (wilfully, feloniously and with malice aforethought, kill by means of a gun shot ... §16-3-10). Such an amendment materially altered the offense originally charged, and therefore, made the second indictment (Murder) alter the nature of the offense.

An amendment to a legally sufficient indictment does not divest the trial court of subject matter jurisdiction so long as the amendment does not change the nature of the offense charged. (See; S.C. Code Ann. §17-19-100 (2003))(If ... there be any defect in form in any indictments ... the court before which the trial shall be had may amend the indictment .. if such amendment does not change the nature of the offense charged ... [; however, if] such amendment shall operate as a surprise to the defendant, ... the defendant shall be entitled, upon demand, to a continuance of the cause.")

Conversely, an amendment to an indictment that changes the nature or the offense charged or charges a different offense divests the trial court of subject matter jurisdiction. 41 Am.Jur.2d Indictments and Information §174 (1995)("An indictment is impermissibly amended if the altered indictment charges a different offense or changes the nature of the offense."); State v. Lynch, 344 S.C. 635, 640-41, 545 S.E.2d 511, 514 (2001)(holding the nature of the offense changed when an indictment for first-degree burglary was amended to change the aggravating circumstance from entering during the darkness to causing physical injury because "the proof required for each aggravating circumstance [was] materially different"); Hopkins v. State, 317 S.C. 7, 9, 451 S.E.2d 389, 390 (1994)(holding the

nature of the offense changed because the amendment to the indictment increased the maximum penalty for the crime); State v. Riddle, 301 S.C. 211, 212, 391 S.E.2d 253, 253 (1990)(holding that the nature of the offense was changed when an indictment was amended from assault with intent to commit third-degree criminal sexual conduct to assault with intent to commit first-degree criminal sexual conduct because the punishment for the amended offense was different from the punishment for the original offense); State v. Sowell, 85 S.C. 278, 283-84, 67 S.E. 316, 317-19 (1910)(holding when an amendment to an indictment substitutes a different and distinct offense from the one charged, the trial court is divested of subject matter jurisdiction because the grand jury had not indicted the defendant on the substituted offense); see also State v. Gunn, 313 S.C. 124, 132-36, 437 S.E.2d 75, 80-82 (1993)(holding the scope of the jurisdiction conferred by an indictment is limited to the offense charged). (See; State v. Bryson, Opinion No. #3713 (Shearouse Adv. Sh. No. #45, at 31-34)(Ct.App. filed December 15, 2003)).

I am aware that the indictment for Murder was purportedly presented to the grand jury. I know that, South Carolina Constitution Article I, §11, sets forth the protections for such provisions. Yet, the second complaint comes into play, and trial counsel should have been aware of this issue and claim.

It was brought to my attention, prior to trial, that the prosecutor had indicted me from [I]nvoluntary Manslaughter to Murder. If you would take the time to examine the indictment(s), the numbers are altered—on one indictment (Involuntary Manslaughter) from [#2000-GS-32-1542] to [#2001-GS-32-1542, by some type of pen, and there exists no form of "initialing" that would demonstrate "whom" had authorized such a change.

The understanding that I had, when trial counsel informed me of the "new" indictment, it was justified by some form of "newly discovered evidence". And this "evidence" was to come from a party that had purportedly spoken to me over the phone, and I was had supposedly stated that I had killed once and would do it again. Yet, at no time, does the record support that this "witness" had appeared before the grand jury to give such testimony. If you would further examine the indictments, you would discover that, for the ~~State v. Capps~~ indictment for Involuntary Manslaughter, Detective Kirchner, LCSD, appeared as the sole witness; then for the Murder indictment, Detective Kirchner, LCSD, was the sole witness before the grand jury. At no time, and by no type of documentation that I have been in a position to receive, can I find where there has been any other "witness" before the grand jury, that would be essential to the procurement of the "heightened" indictment.

In the case of State v. Capps, 276 S.C. 59, 275 S.E.2d 872 (1981), our Supreme Court addressed the issue of only having "one prosecutorial agent" appearing before the grand jury, and giving a "third hand capsule version" of facts and testimony, that this "agent" had no personal and/or actual knowledge of the events surrounding the case.

In the case of State v. Dawkins, 297 S.C. 286, 377 S.E.2d 298 (1989), our Supreme Court revisited this same issue. In Dawkins the Court stated: "This Court has stated that "[t]he practice of using a solicitor or other officer of the State as the sole witness before the grand jury to provide only a summary of the evidence could be abused and we strongly suggest it be abandoned unless no alternative is available." This Court reiterated its holding in Capps, supra.

In the case of State v. Anderson, 439 S.E.2d 835 (1993), our Supreme Court revisited this issue, for a third time, and at this time, held: "because of the uncertainty and confusion

that is taking place at all levels of the judiciary regarding this issue, we take this opportunity to **explicitly prohibit** the practice of prosecutors appearing as the sole witness before the grand jury." Id. at 836.

It is my position that the Supreme Court decisions, over the past years, have demonstrated their envisionments of the abuse and prejudice that arises during this course of conduct. Especially as in this case where the record shows that the same, exact, "witness", was the **sole agent** of the prosecutor's office to appear, not once, but both times before a grand jury. And, please take note that, I am not making a claim that the prosecutor did not obtain some one to "testify", as to a purported statement that I was supposedly made, but, that such testimony occurred only for the benefit of the jurors during the course of the criminal trial, and at no time, for the benefit of essential facts and elements required to "heighten" or increase the offense from the lesser-included, to the most severe.

In United States v. Edwards, 111 F.Supp.2d 1057 (E.D.Wis 2000), that Court held, "the Fifth Amendment requires that a grand jury consider whether there is evidence to support all elements of the crime charged, and that the indictment allege all elements, not that the grand jury consider and the indictment allege some elements, with the government permitted to assert later in a bill of particulars that it will prove the remaining elements at trial." Id. at 1063-64.

For the prosecution to allow the Murder indictment to be presented and then "True Billed", without sufficient evidence and testimony being properly before the grand jury, causing the indictment to fail as being competently and properly before a seated grand jury panel, consistent with the mandates of South Carolina Constitution, Article I, §3; and I, §11.

This also presents an additional claim that should be considered. Taking into account the argument above, this would give rise to a claim that the enhancement was the product of an "invidiously discriminatory" act or practice. As you are aware, such conduct or acts, are equivalent to a "malice prosecution" allegation.

The South Carolina Supreme Court has recently held that, "challenges alleging prosecutorial misconduct typically involve a prosecutor's improper efforts to collect evidence or unfair trial tactics. SEE, e.g., State v. Quattlebaum, 338 S.C. 441, 527 S.E.2d 105 (2000)(assistant solicitor viewed the surreptitious videotaping of privileged attorney-client communication); State v. Huggins, 325 S.C. 103, 481 S.E.2d 14 (1997)(prosecutor discussed matters outside the evidence during closing arguments); State v. Chisolm, 312 S.C. 235, 439 S.E.2d 850 (1994)(prosecutor improperly audiotaped telephone conversation with defendant, who was represented by counsel); State v. Robinson, 305 S.C. 469, 409 S.E.2d 404 (1991)(prosecutor allegedly used previously suppressed evidence at trial); State v. Atkins, 303 S.C. 214, 399 S.E.2d 760 (1990)(prosecutor allegedly obtained confidential medical records in violation of attorney-client privilege); State v. Pee Dee News Co., 286 S.C. 562, 336 S.E.2d 8 (1985)(prosecutor asked improper questions at trial); State v. Craig, 267 S.C. 262, 227 S.E.2d 306 (1976)(prosecutor's conduct at trial allegedly was calculated to arouse unfair prejudice against defendant); see also; State v. Thrift, 440 S.E.2d 341 (1994).

The manner in which the prosecutor either presented, or did not present, evidence before the grand jurors, supporting an indictment increasing the elements, and further causing my punishment to be more "onerous", is contrary to the well-settled standards of law. If the "witness" (Brenda Jean Stevenson) that had testified during the trial, and stated that I had made some

form of threat over the phone, trial counsel was in a unique position to move the court to suppress such testimony, and/or impeach her due to her past criminal convictions and behavior, and where it was my understanding that she received a lessening of punishment for criminal activity after my trial, and therefore, establishing and preserving a record for future appeals.

State Statute Violation.

See State v Jane Blackwell 2005

Please refer to exhibit 4, Applicant was arrested and charged with Involuntary Manslaughter, Exhibit 5 shows Applicant was indicted for Involuntary Manslaughter 11 months later from the arrest warrant, exhibit 5 further shows on the back it's not true billed or signed by the grand jury foreman or stamped by the grand jury, then it's written dismissed defendant convicted of murder 6/28/01 signed by Solicitor Christian G. Spradley. This indictment is invalid due to not being signed by the grand jury, plus it's 11 months later from the arrest warrant. South Carolina Statute mandates you have 90 days to indict, in this case it was never done. Then 4 months from that indictment applicant was indicted for Murder see exhibit 7. This indictment is also invalid, it was not done within the 90 day Statute, Plus you can not go from a lesser charge to a greater. The State had applicant charged with the lesser offense and the greater offense on the same Person. This is a major violation. Also refer to exhibits 8, 9, 10, and 11. This issue has no time frame and must be addressed.

Subject Matter Jurisdiction.

The Lexington County Solicitor's office and the Lexington County Court of general Session's had no Subject matter jurisdiction to try the Petitioner at trial due to the indictments not being valid, see exhibits 5 and 7. The South Carolina Rules of Criminal Procedure (see exhibit 8) states you have 90 days to indict (Rule 3(c), Rule 3(d) states the solicitor may petition the Court for extension's of time, in this case it was not done.

Tampering With Evidence.

See exhibits 1, and 1(A) also 1(B) detective Keith Kirchner wrote Applicant's statement, then the detective changed the date's from 1/29/00 see exhibit 1, to December 18, 2005 exhibits 1(A) and 1(B). Then he witnessed it and notarized it, This statement is invalid.

See exhibit 19 lines 8 through 15 Jim Hickman admitted to moving the evidence then taking Pictures afterwards. This is grounds for case dismissal.

Perjury.

Retained trial Counsel Robert Theo Williams testified at the first PCR hearing in 2006 November 28, and 29 th that Petitioner was offered a 3 year plea offer and turned it down. See exhibit 26 lines 20-22, trial Counsel referred to a Johnny to get a 3 year Sentence not Petitioner. See exhibit 27 lines 7-9 trial Counsel now is referring to Petitioner being offered a 3 year Sentence and turned it down. Petitioner was never offered a 3 year plea offer for Involuntary Manslaughter. Exhibit 30 shows a plea offer for BMV and PL recommended Probation. Petitioner accepted it, no where in the records is there a plea offered to Petitioner for Involuntary Manslaughter.

Due Process Law, Under the 5th
and 6th Amendment of the U.S.
Constitution.

See the following exhibits, 4, 5, 7, 19,
23, 26, 27, 28, 33, 34 (A) and exhibit 39.
These exhibits show Due Process violations,
against Petitioner.

Prosecutorial Misconduct

Please refer to the following pages
1-8. As well as exhibits 4, 5, 7, 19,
20, 21, 26, 27, and 39. These will
show that to continue to prosecute
Petitioner with these facts is nothing
more than Prosecutorial Misconduct.

Current PCR Action,

1. Ineffective assistance of trial counsel in that:
 - (a.) "Counsel failed to move to squash the defective murder indictment"
 - (b.) "Trial counsel failed to file pre-trial motion in regards to the speaker from the crime scene being moved at the room of the house",
 - (c.) "Trial counsel failed to pre-trial the matters of the state's witness Brenda Stevenson who was not before the Grand jury to bring the alleged accusation that Petitioner made some sort of threat over the phone."

2. Ineffective assistance of appellate Counsel, in that:

(a.) "Appellate Counsel Carter failed to raise all trial issues to the appeal court, the trial issues are preserved by trial counsel and the rules were violated by the appeal attorney;

3. Ineffective assistance of PCR Counsel, in that:

(a.) "PCR counsel failed to procure the record evidence from trial counsel regarding the plea deal consisted of three (3) years offered from the State Counsel, etc."

(b.)" PCR Counsel failed to procure all necessary case files to raise the needed amended issues that should have been raised to guarantee the Applicant a completed one bite at the apple in his PCR case matters Presented before the Court, etc"

Issue 1.(a) From Page 11.

Please see pages 1 - 7 and exhibit's 8 and 9. Trial Counsel failed to show the court that Rule 3 of the South Carolina Rules of Criminal Procedure, letter (C) states you have 90 days to indict after an arrest warrant. and letter (d) states if the Solicitor may petition the Circuit Court an extension of time, if the court finds good cause for such delay. In this case it was not done. South Carolina Statute mandates you have 90 days to indict. In this case it was not done, see exhibits 4, 5 and 7.

Issue 1.(b) From page 11.

See exhibit 19, and page 8 under Tampering With evidence. Trial Counsel was in the Position to have the case thrown out but didn't.

1.(c) from page 11.

See pages 1-7 and exhibits 23, 24 and 25. Trial Counsel was in the Position to show the Court the Murder Indictment and it would prove that Brenda Stevenson never appeared before the grand jury because her name was not on the witness section of the indictment. Therefore her testimony at trial over an accusation that the Petitioner had made some sort of threat over the Phone was hear say. Trial Counsel was in a unique position to move the court to suppress such testimony, and impeach her.

Issue 2.(A) from page 12.

Appellate Counsel Carter was not Petitioner's Appellate Counsel, Petitioner apologizes to this court for making an error on the wrong name. Appellate Counsel's name was Joseph L. Savitz, III. Appellate Counsel also was in the position to raise these issues that Petitioner has brought to this honorable court. The appellate rules were violated by the appeal attorney. See page 10 under Due Process Appellate Counsel was in violation of this, as well.

Issue 3 (A) from page 12.

See exhibits 26 and 27.

PCR Counsel was in the position to have trial Counsel prove with documentation that a Involuntary Manslaughter plea exists.

Issue 3.(B) from page 13.

See exhibits 28, 29, 33, 34 and 34(A) and page 10 under Due Process Law. PCR Counsel failed in helping Petitioner get a fair PCR hearing, and all the evidence that is before this honorable Court proves that.

Conclusion.

The lower Court's argument is, The Action is untimely. The Petitioner's Case has been in the hands of the trial counsel, the solicitor's office in Lexington County, the Lexington County Court of General Sessions, Appellate Counsel, The Appellate Court, The Attorney General's office, The South Carolina Supreme Court,

The federal district court in Columbia, the fourth Circuit, court and the United States supreme court. This Case is now back before this court with the same evidence as before but now that Petitioner has had someone here where Petitioner is being held show Petitioner the wrong's that has been done to me and that this needs to be dealt with.

Title 17- Criminal Procedures
Chapter 27.

Section 17-27-20.

(2) That the court was without jurisdiction to impose sentence;

Subject matter jurisdiction is a issue that can be raised at any time. The Petitioner will prove to this court, Section 17-27-20. (2).

Please see pages 1-8, and exhibits 4, 5, 7, 8, 9, 10, and 11. Exhibit 4 shows petitioner was arrested for Involuntary Manslaughter, exhibit 5 shows Petitioner was indicted for Involuntary Manslaughter. This indictment was way over the 90 days that Rule 3 (C) exhibit 8 says you are to indict and violates that rule and the State Statute. Exhibit 7 shows Petitioner was then indicted for Murder, again Petitioner was not indicted in the 90 days that is required, furthermore Changing the original offense, and making the original more different than the original indictment, and changes the nature of the offense. With all this proven here, and as exhibit 9 shows Jane Blackwell's Case was dismissed for this very same reason as Petitioner case is, As it stands the lower court had no subject matter jurisdiction to even try this case or sentence Petitioner, therefore there is no legal right to be arguing this case at all.

The lower Court also argues
that The Action is Barred as Successive.

Title 17 - Criminal Procedure. Chapter 27.
Section 17-27-20

(4) That there exists evidence of material facts, not previously presented and heard that requires vacation of the conviction or sentence in the interest of justice.

Petitioner will show this honorable court (4). Please see pages 1-19, and exhibits 1-39 these are evidence of material facts, which were not previously presented and heard. This does require vacation of the conviction and the sentence. The lower Court had no subject matter jurisdiction to try petitioner or sentence him, and this has been a proven fact.

This therefore shows that this is not successive and not barred.

Finally the lower court argues laches and res judicata.

Petitioner appealed all the way up to the United States Supreme Court, and that took years. The Petitioner was starting over again when I put in for a second PCR action that is the reason for the length of time.

Petitioner did not know how to argue the facts of law that deals with the documented evidence petitioner has.

Title 17- Criminal Procedures
Chapter 27.

Section 17-27-20

- (1) That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this state.

Petitioner's Constitutional's right under the 14th Amendment, section 1 has been violated as well as his due process law rights, as well as the laws of this state. See pages 1-19 and exhibits, 4, 5, 7, 8, 9, 19, 20, 23, 26, 27, 28, 33, 34, 34(A) and 38.

Petitioner asks this honorable court to grant this writ and release petitioner from the custody of the state and remove the charges off his record.

The Supreme court of
South Carolina.

James Michael Lucas
S.C.D.C. NO: 276323
Petitioner

VS.

State of South Carolina
Respondent

State of South Carolina in the
Supreme Court.

Appellate case NO: 2019-000817

CERTIFICATE OF
SERVICE BY MAIL.

RECEIVED

MAY 31 2019

S.C. SUPREME COURT

The undersigned Certifies that he has this day
served a copy of Petitioner's Writ of Certiorari
in the above-captioned matter on the following
person by depositing same in the United States
mail, postage prepaid.

Dated this 29 day of May, 2019

James M. Lucas
James M. Lucas
Counsel

The Supreme Court of South Carolina

James Michael Lucas, Petitioner

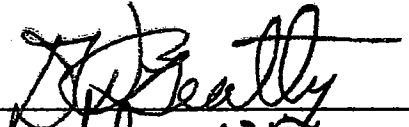
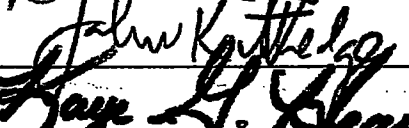
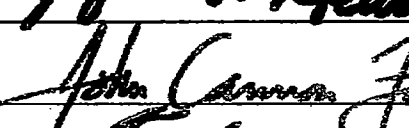
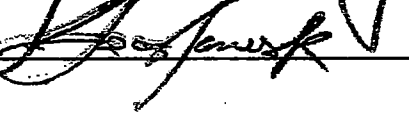
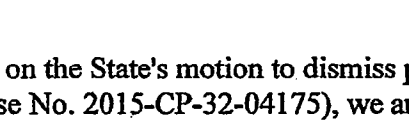
v.

State of South Carolina, Respondent.

Appellate Case No. 2018-001963

ORDER

Petitioner has filed a Motion for Immediate Release, dated October 18, 2018; a Motion to Add Documents into Evidence, dated March 25, 2019; a Motion of Objection to the States Return in Opposition to the Motion for Immediate Release, dated March 25, 2019; and an Amendment to the Motion of Objection to the States Return in Opposition to the Motion for Immediate Release, dated March 28, 2019. The Motion to Add Documents into Evidence is granted. The remaining motions are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's original jurisdiction.¹

	_____	C.J.
	_____	J.
	_____	J.
	_____	J.
	_____	J.

¹ Although a hearing was held on August 7, 2017 on the State's motion to dismiss petitioner's second application for post-conviction relief (Case No. 2015-CP-32-04175), we are concerned that no order has been issued.

Columbia, South Carolina

April 29, 2019

cc:

Alan McCrory Wilson, Esquire

Kelly Oppenheimer, Esquire

Melody Jane Brown, Esquire

James Michael Lucas, 00276323

VOLUNTARY STATEMENT OF SUSPECT OR DEFENDANT

Pg 1 of 3 pgs

DATE 1-29-00 PLACE LCS D TIME STARTED 10:30 P.M.

I, the undersigned, James Michael Lucas, am 24 years of age, my date and place of birth being the _____ day of _____, 19____, at _____ my present address is Basil Rd - Summasea S.C. 29160 before answering any questions or making any statements, Keith Kirchner a person who identified himself as a Private

I HAVE BEEN FULLY WARNED AND ADVISED ME:

MAY 15 01 099

- ML1. That I have the right to remain silent and not make any statement at all.
- ML2. That any statement I do make can be used against me in court.
- ML3. That I have the right to have an attorney present at any time during questioning.
- ML4. That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
- ML5. 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:

On 1-29-00 in the evening hours me, Crystal Spurck (my girl friend) and Dianne Spurck (Crystal's mother) were in Crystal's bedroom. We were in the room for several hours watching T.V. and talking. We were enjoying the evening together and were not arguing. Crystal was laying in the bed with her head on a large pillow at head board. She was laying on the left side of the bed. Dianne was seated at the foot of the bed on the right corner facing the T.V. I decided to clean a rifle that I kept in Crystal's closet. I took the rifle out and assumed it was not loaded. I used a rag and 3in1 oil that was in the room to clean the gun. When I began cleaning the

Witness Keith Kirchner

Notary Public _____

James Michael Lucas
Person giving Statement

Date

1-29-00

RULE 6

Exhibit 1

VOLUNTARY STATEMENT OF VICTIM / WITNESS

Pg 2 of 3 pgs

MAY 15, 01

100

gun I was standing at the foot of the bed in the center. I was facing Crystal and was wiping around the magazine of the gun. I pulled the slide back on the gun and released it. I possibly had my finger on the trigger and the gun went off accidentally. The bullet struck Crystal in the head. I immediately placed my hand on Crystal's chest to see if she was breathing. She was not breathing. I kissed her stomach and told her I loved her. Dianne told me to take the gun out of the house. I left the room with the gun and Dianne told Frank what happened. Frank told me to call 911. I told Frank I was going to get the gun out of the house but he told me to leave it inside. I took the gun out of the house because Dianne told me to. I hid the gun in the woods near my house and covered it with snow. I went to Ron Hook's to call 911. When I arrived on foot I asked Ron if I could use his phone but didn't tell him why. I called 911 from his

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.

X Amor Lucas
Signature of person giving voluntary statement

born to before me this 15 day of Dec 1999.

John P. K.
Notary Public of South Carolina

RULE 5

Exhibit 1 (CA)

Pg 3 of 3 pgs

Cordless phone while standing outside where Ron could not hear me. Then I returned to my house and when I arrived Dianne & Frank were at the kitchen. I sat at the kitchen table with them until the police and ambulance arrived.

MAY 15, 01 101

About one month prior to today I went to a residence on Basil Rd. in Colleton County on foot. I believe the Jumper family lives at the residence. I took a rifle and scope from a Red Ford truck that was unlocked. The gun was behind the seat. I also took a box of bullets that had two bullets missing from the truck. I was intoxicated and on crack at the time. I took the rifle home and it is the same rifle that I accidentally shot Crystal with tonight.

~~Keith Kirchner~~ wrote this statement for ML me.

I have read this page, initialed corrections or changes, if any, and received a copy of this statement. I certify that the facts contained herein are true and correct to the best of my knowledge.

X James Lucas
Signature of person giving voluntary statement

Presented to before me this 18 day of Dec 2005

James H. K.
Notary Public of South Carolina

VOLUNTARY STATEMENT OF SUSPECT OR DEFENDANT

Page 1 of 1 pgs

DATE 1/29/2000 PLACE 12576 NW 22nd St TIME STARTED 745 P. M.

I, the undersigned, DIANE ANN SPRICK, am 37 years of age, my date and place of birth being the day of , 19 , at EVANSVILLE IN. My present address is 12576 NW 22nd St 29160. Before answering any questions or making any statements, ROBERT SEVOLUTION person who identified himself as a DETECTIVE.

FULLY 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:

I was in Crystal room talking to Crystal, Mike and we were listen to the radio. And Mike was cleaning the gun when it accidentally went off and hit Crystal. Then Mike went to a friends house and call for help. Then I talked to my husband at the kitchen table about what had happen to Crystal. After that I touch Crystal on the chest to see if she was breathing. I also told Mike to take the gun out of the house. P.S.

MAY 15 07 161

RULE 5

Witness [Signature]
Notary Public
My Commission expires

DIANE ANN SPRICK
Person giving Statement
Date 1/29/2000
Exhibit 2, LCF 330 (9/19/83)

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
INVESTIGATIVE SUPPLEMENT

AGENCY I.D.
SC0 320000

MAY 15 04
CASE #0006009 076

PAGE 2 OF 2

Victim: SPURCK, CRYSTAL DIANE
Address: 1259 BASIL ROAD
City, State, Zip : SWANSEA SC 29160
Incident Type: DEATH UNDER INVESTIGATION

DOB:
R: W S: F
Age: 14

Suspect: LUCAS, JAMES MICHAEL
Address: 1259 BASIL ROAD
City, State, Zip : SWANSEA SC 29160
01/30/2000

DOB:
R: W S: M
Age: 24

I/O RESPONDED TO THE INCIDENT LOCATION 1259 BASIL ROAD IN SWANSEA REF. TO THE DEATH OF THE VICTIM. I/O MET WITH SGT. KIRCHNER OF THE MAJOR CRIMES UNIT UPON ARRIVAL. HE ADVISED THE I/O TO SPEAK WITH THE MOTHER OF THE VICTIM ABOUT THE INCIDENT.

I/O SPOKE WITH A DIANE (NMN) SPURCK W/F DOB: 12/11/1962 1259 BASIL ROAD SWANSEA SC 29160. MS SPURCK STATED THAT SHE, HER HUSBAND FRANK SPURCK, THE SUSPECT, AND THE VICTIM WERE ALL IN THE VICTIM'S BEDROOM LISTENING TO MUSIC ON THE RADIO SHORTLY BEFORE THE INCIDENT THIS WAS AROUND 1600 HRS. THE VICTIM AND THE FATHER GOT INTO A VERBAL ARGUMENT ABOUT THE VICTIM BEING TOO LOUD SO, THE MOTHER TOLD THE FATHER TO LEAVE THE ROOM. AFTER THE FATHER LEFT THE THREE CONTINUED TALKING WHILE THE SUSPECT WAS CLEANING A RIFLE. THE VICTIM WAS SITTING ON THE BED WITH HER BACK AGAINST SOME PILLOWS AND THE HEAD BOARD. THE MOTHER WAS SITTING ON THE BED THE NEAR THE FOOT AND TO THE LEFT OF THE VICTIM WITH HER BACK TOWARDS THE VICTIM AND THE SUSPECT. SHE WAS FACING A TELEVISION IN THE BEDROOM. THE SUSPECT WAS STANDING AT THE FOOT OF THE BED HOLDING A RIFLE WHILE CLEANING IT WITH A RAG AND SOME OIL ACCORDING TO MS. SPURCK. SHE STATED THAT SHE AND THE VICTIM TALKING ABOUT THE VICTIM'S GRADES, SCHOOL, AND THE WEATHER OUTSIDE WHETHER IT WAS OR WASN'T GOING TO SNOW. MS. SPURCK STATED THAT THE RIFLE WENT OFF AND SAW CRYSTAL LYING BACK ON THE BED. SHE TOLD THE SUSPECT GO GET HELP AND GET THE RIFLE OUT OF THE HOUSE. THEY LEFT BEDROOM AND TOLD THE FATHER IN THE KITCHEN WHAT HAD HAPPEN IN THE BEDROOM AND THE SUSPECT WENT TO A NEIGHBOR'S HOUSE TO CALL FOR EMS. SHE STATED THAT SHE WENT BACK INTO THE ROOM TO SEE IF THE VICTIM WAS BREATHING AND TOUCHED THE VICTIM'S CHEST. SHE STATED THAT THE VICTIM WASN'T MOVING. SHE STATED THAT IT WAS ACCIDENT THAT THE SUSPECT DIDN'T MEAN TO SHOOT THE VICTIM.

INV. ROBERT L. SINGLETON

30-Jan-2000

302

RULE 5

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
INVESTIGATIVE SUPPLEMENT

AGENCY I.D.
SC0 320000

CASE #0006009

PAGE 2 OF 2

I/O ASKED MS SPURCK IF THE VICTIM AND SUSPECT HAD BEEN GETTING ALONG PRIOR TO THE SHOOTING INCIDENT THAT DAY. SHE STATED YES THAT THEY HADN'T BEEN ARGUING WITH EACHOTHER.

I/O SPOKE WITH SGT. KIRCHNER AND ADVISED HIM OF THE MOTHER STATEMENT. HE ADVISED THE I/O TO GET A WRITTEN STATEMENT FROM THE MOTHER. I/O TOOK A WRITTEN STATEMENT FROM THE MOTHER REGARDING THE SHOOTING INCIDENT. SGT. KIRCHNER ALSO ADVISED THE I/O TO SPEAK WITH THE NEIGHBORS AT 1253 AND 1251 BASIL ROAD.

I/O WENT TO 1251 BASIL ROAD AND FOUND NO ONE AT THE RESIDENCE. I/O WENT TO 1253 BASIL ROAD AND SPOKE WITH A LORENZO GUINYARD B/M DOB: 02/28/54 OF 1253 BASIL ROAD SWANSEA SC 29160 H) 568-5842. I/O ASKED MR. GUINYARD IF HE HAD ANY CONTACT WITH THE NEIGHBORS AT 1259 BASIL ROAD THE SPURCK RESIDENCE TODAY (01/29/2000). HE STATE THAT AT ABOUT 1630 HRS HE SAW THE MIKE (SUSPECT) WALKING THROUGH HIS FRONT YARD TOWARDS THE SPURCK RESIDENCE AND THEN ABOUT 1645 HE SAW THE MIKE "TROTting" THROUGH HIS BACK YARD FROM THE SPURCK RESIDENCE TOWARDS ANOTHER NEIGHBOR'S HOUSE. I/O ASKED MR. GUINYARD IF EITHER TIME THAT HE SAW THE SUSPECT WAS HE ALONE AND HE STATED YES, HE WAS ALONE. I/O ASKED IF HE COULD TELL THE I/O ANYTHING ABOUT MIKE WHEN WAS TROTting AWAY FROM THE RESIDENCE AND HE STATED NO, THAT HE WAS JUST TROTting AWAY FROM THE RESIDENCE.

MAY 15 01

077

RULE 5

INV. ROBERT L. SINGLETON

30-Jan-2000

302

Ed 1 on Ed 1 2 (1)

ARREST WARRANT

G-014183 G- 014183

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

Lexington

THE STATE

against

FEB 2 2000

JAMES MICHAEL LUCAS

Address: BASIL RD

SWANSEA, SC 29160

Phone: SSN:

Sex: M Race: W Height: 5-5 Weight: 120

DL State: DL #:

DOB: 6 Agency ORI #: 3200

Prosecuting Agency: L. C. S. D.

Prosecuting Officer: KIRCHNER

Offense: INVOLUNTARY MANSLAUGHTER

Offense Code:

Code/Ordinance Sec. 10-17-530 16-3-60

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 JAMES MICHAEL LUCAS

on 1-30-00

mco leftin

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

BRUCE RUTLAND
650 KNOX ABBOTT DR.
CAYCE, SC 29033

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

Lexington

Personally appeared before me the affiant KEITH R. KIRCHNER being duly sworn deposes and says that defendant JAMES MICHAEL LUCAS did within this county and state on 01/29/2000 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of) in the following particulars:

DESCRIPTION OF OFFENSE:

INVOLUNTARY MANSLAUGHTER

COI 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 1-29-00 AT APPRX. 6:00 P.M. THE DEFENDANT, JAMES LUCAS WAS CLEANING A 30.06 CAL. RIFLE WHILE AT HIS RESIDENCE LOCATED, 1259 BASIL RD. IN LEXINGTON CO., S.C. WHILE CLEANING THE RIFLE LUCAS HAD IT POINTED AT HIS GIRLFRIEND, CRYSTAL SPURCK. LUCAS WAS STANDING LESS THAN SIX FEET FROM THE VICTIM WHEN THE RIFLE DISCHARGED KILLING THE VICTIM. LUCAS TOLD DEPUTIES HE DID NOT KNOW THE RIFLE WAS LOADED. LUCAS ALSO ADMITTED HE DID STEAL THE SAME RIFLE PRIOR TO THE INCIDENT.

Sworn to and subscribed before me

on 01/30/2000

Signature of Affiant (L.S.)
Signature of Issuing Judge

LLEWELLYN H. HAMES

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 01/29/2000 defendant JAMES MICHAEL LUCAS did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☐ Municipality of) as set forth below:

DESCRIPTION OF OFFENSE:

10-17-530 16-3-60 LNN

INVOLUNTARY MANSLAUGHTER

Now, therefore, you are empowered and 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.)

Signature of Issuing Judge

Judge Code:

840

Exhibit 4

Judge's Address

Judge's Telephone

Judge's Telephone

Judge's Telephone

Issuing Officer

Lex. Co. C.C. Magistrate

☐ Municipal ☐ Circuit

Form Approved by
S.C. Attorney General
July 26, 1990
SCCA 518

FILED
100

AFFIDAVIT

Keith R. Kirchner
LEXINGTON SHERIFF'S DEPT.
521 GIBSON RD
LEXINGTON, SC 29072
359-8230

ARREST WARRANT

TRUE COPY
781-7847
Lex. Co. C.C. Magistrate

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
INVOLUNTARY MANSLAUGHTER
§16-3-60

At a Court of General Sessions, convened in December 2000, the Grand Jurors of LEXINGTON County present upon their oath:

INVOLUNTARY MANSLAUGHTER

§16-3-60

That **JAMES MICHAEL LUCAS** did in Lexington County on or about January 29, 2000, with reckless disregard for the safety of others, did shoot and kill the victim, Crystal D. Spurck, such being in violation of Section 16-3-60 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.

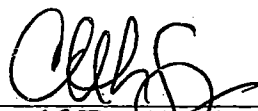

ATTORNEY GENERAL

Exhibit 5

FILED
83
STATE OF SOUTH CAROLINA
County of Lexington
WITNESSES
J. W. WATKINS

WITNESSES

LCSD

Kirchner

ARREST WARRANT NUMBER

G-014183

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2000-GS-32-1542

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

DECEMBER TERM 2000

THE STATE

vs.

JAMES MICHAEL LUCAS

CDR# 218

Indictment for

INVOLUNTARY MANSLAUGHTER

§16-3-60

DONALD V. MYERS, SOLICITOR

I DO HEREBY WAIVE MY RIGHT
TO GRAND JURY PRESENTMENT

DEFENDANT

DATE

WITNESS

Dismissed
Defendant Guilty
of murder 6/28/01

CDR

STATE OF SOUTH CAROLINA
COUNTY OF COV
STATE OF SOUTH CAROLINA

Ticket or Warrant No.: G014183
IN THE X COURT OF GENERAL SESSIONS
X MAGISTRATE'S COURT
() MUNICIPAL COURT OF _____

JAMES M. LUCAS
Name of Defendant

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE
(Bail Proceeding Form 2)

Offense Charged: INTOX. MANSLAUGHTER

At a bail proceeding conducted by undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☒ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☒ The release of the defendant on recognizance will result in an unreasonable danger to the community.
This determination was based upon the following findings of fact:

[Considerations: Nature and circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check one):

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina, deposits \$ _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant acknowledges himself to be indebted to the State of South Carolina in the sum of \$ _____, his release to be obtained by payment to the court of _____ (%) of this bond in cash, this amount being \$ _____. The defendant will be obligated to the State in the full amount of \$ _____, such sum to be levied on his real and personal property for the use of the State, should he fail to perform the conditions of this Order.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☒ The defendant will provide good and sufficient surety approved in the court, in the form set forth on the reverse side, acknowledging an indebtedness to the State in the amount of \$ 50,000.

That the defendant shall appear at (check one):

the term of the court of general sessions beginning on [Date:] 6-12-00 at [Time:] 9:00 o'clock, A.M., at [Place:] In Place

and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of magistrate/municipal (circle one) court beginning on [Date:] _____ at [Time:] _____ o'clock, _____ M., at [Place:] _____

final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Initials of Defendant

ML

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described on the reverse side, which are marked.

Signature of Judge

Date

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, including any conditions included on the reverse side of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, an additional criminal charge will be instituted against me. If the failure to appear is in connection with a felony charge, or while awaiting sentence, or pending appeal or certiorari after conviction, the penalty is a fine of not more than \$5,000 or imprisonment for not more than five years, or both; if I fail to appear in connection with a misdemeanor charge, the penalty is a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

I acknowledge the receipt of a copy of this Order and understand the conditions of my release and the penalties applicable to me in the event I violate any condition of the Order or fail to appear as required.

Address

1023 Blackville Rd
GASTON SC

City/State/Zip

568-4920

Number/Telephone No.

Attorney Representing Accused (If known)

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED.

Original copy for the Trial Court - Copy for the Defendant

Exhibit 6

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
MURDER
§16-3-10

At a Court of General Sessions, convened in APRIL, 2001 the Grand Jurors of
LEXINGTON County present upon their oath:

MURDER §16-3-10

That **JAMES MICHAEL LUCAS**, did in Lexington County, on or about January
29, 2000, willfully, feloniously and with malice aforethought, kill one **Crystal Spurck**, by
means of a gunshot, and Crystal Spurck died as a result of thereof, in violation of
Section 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.

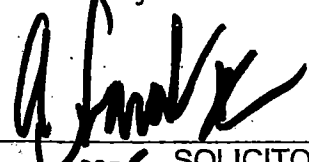

ASS. SOLICITOR

Exhibit 7
Exhibit 5

WITNESSES

LCSD

Kirchner

ARREST WARRANT NUMBER

STRAIGHT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Michael E. Bantell
FOREMAN, GRAND JURY

Foreperson of Grand Jury

Date:

4-5-01

VERDICT

Guilty of Murder 6/28/01

Robert F. Buggel

Foreperson of Petit Jury

Date:

DOCKET # 2001-GS-32- 1182

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

APRIL TERM 2001

THE STATE

vs.

JAMES MICHAEL LUCAS

CDR# 116

Indictment for

MURDER
§16-3-10

DONALD V. MYERS, SOLICITOR

[Signature]

Rule 2

RULES OF CRIMINAL PROCEDURE

TRIAL MATTERS

(c) **Probable Cause.** If probable cause be found by the magistrate, the defendant shall be bound over to the Court of General Sessions. If there be a lack of probable cause, the defendant shall be discharged; but his discharge shall not prevent the State from instituting another prosecution for the same offense.

(d) **Conclusion of Hearing.** After concluding the hearing the magistrate shall transmit forthwith to the Clerk of the Court his findings together with all papers in the hearing.

(e) **Delays.** Any delay in the holding of a preliminary hearing shall not be grounds for a delay in the prosecution of the case in the Court of General Sessions.

[Adopted effective September 1, 1988.]

Rule 2 is the language of Criminal Practice Rule 9.

Library References

Criminal Law ¶222, 229.

Westlaw Topic No. 110.

C.J.S. Criminal Law §§ 349, 452 to 462, 464 to 469.

C.J.S. Indictments and Informations § 82.

Attorney General's Opinions

It is required that where a summary court judge finds no probable cause at a preliminary hearing on a general sessions charge, the defendant must be "discharged" from

custody, provided of course the defendant has no other charges pending which require incarceration. S.C. Atty. Gen. (January 31, 2013) 2013 WL 565007.

Notes of Decisions

In general 1

Fed.Appx. 85, 2001 WL 427933, Unreported. Criminal Law ¶232

1. In general

The State was not required to provide defendant an attorney at his "Preliminary Hearing," where such hearings are limited in South Carolina to probable cause determinations. Pearson v. Harrison (C.A.4 (S.C.) 2001) 9

A magistrate's jurisdiction over a non-magistrate offense is terminated when the defendant is indicted by grand jury. State v. Ballington (S.C.App. 2001) 346 S.2d 262, 551 S.E.2d 280, rehearing denied, certiorari denied. Criminal Law ¶102

RULE 3. DISPOSITION OF ARREST WARRANTS

(a) **Transmittal to Clerk.** Magistrates, municipal judges, and other officials authorized to issue warrants shall, in all cases within the jurisdiction of the Court of General Sessions, forward to the Clerk of the Court of General Sessions all documents pertaining to the case, including, but not limited to, the arrest warrant and bond, within fifteen (15) days from the date of arrest in the case of an arrest warrant and date of issuance in the case of other documents. Transmittal shall be pursuant to procedures now or hereafter promulgated by the Office of South Carolina Court Administration.

(b) **Transmittal to Solicitor.** The Clerk of the Court of General Sessions shall forward to the Solicitor of the State of any arrest warrant received pursuant to paragraph (a) above to the solicitor within two business days from date of receipt from the issuing official.

(c) **Action on Warrant.** Within ninety (90) days after receipt of an arrest warrant from the Clerk of Court, the solicitor shall take action on the warrant by (1) preparing an indictment and presenting it to the grand jury, which indictment shall be filed with the Clerk of Court as a criminal case number, and presented to the Grand Jury; (2) formally dismissing the warrant, noting on the face of the warrant the action taken; or (3) making other affirmative disposition and filing such action with the Clerk of Court.

(d) **Extensions of Time.** The solicitor may petition the circuit court for an order delaying action on the warrant, as set forth above, for successive ninety (90)-day periods if the circuit court specifically finds good cause for such delay for each successive ninety-day period.

(c) **Record of Proceedings.** All proceedings shall be entered in the records promulgated by the Office of Court Administration, adopted effective September 1, 1988.

Rule 3 is the language of Criminal Practice Rule 9.

Criminal Law ¶215.

Westlaw Topic No. 110.

C.J.S. Criminal Law §§ 447 to 451.

C.J.S. Criminal Law §§ 447 to 451.

C.J.S. Criminal Law §§ 447 to 451.

C.J.S. Criminal Law §§ 447 to 451.

C.J.S. Criminal Law §§ 447 to 451.

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C.J.S. Criminal Law §§ 447 to 451.

C.J.S. Criminal Law §§ 447 to 451.

Grand jury sees 1,404- case session

**■ Spartanburg solicitor worries
about fines, gives panel less
than 22 seconds per indictment**

Associated Press

SPARTANBURG, S.C. — An Update prosecutor worried about potential fines rushed 1,404 cases in front of a grand jury Tuesday.

Weeks ago, Solicitor William Gossett's office sent 1,404 cases before the Spartanburg County grand jury in a two-day session.

The Tuesday session meant that the grand jury had slightly less than 22 seconds a case for the 1,404 matters during the eight-hour, 20-minute session.

Mr. Gossett is leaving office in January after he lost in the Republican primary this summer to Fred Gowdy. A Gowdy supporter says Mr. Gossett is forgetting the duty of overloading the grand jury.

A spokesman for Mr. Gossett said last month the high caseload was necessary to avoid fine similar to that of Greenville prosecutor Bob Asbill, who was fined by Circuit Court Judge John B. Bledsoe for not complying with South Carolina rules. Action on an arrest warrant must be taken within 90 days of receiving it from the clerk of court.

The fine was later dropped.

The mass indictments leave Mr. Gowdy with a large pool of cases he can't be sure to have looked at.

"It looks to me like the policy we used to have of reviewing cases to see if they have a basic degree of merit before sending them for indictment has been abandoned," said Spartanburg attorney Andy Johnston, an assistant solicitor for Mr. Gossett from 1988 to 1990.

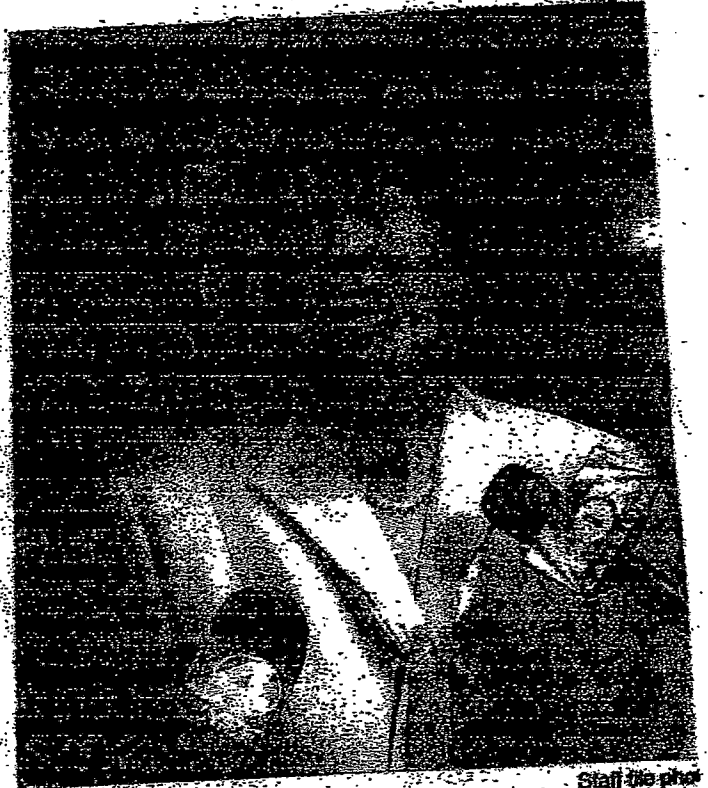
Mr. Johnston said it looked as though prosecutors just took every case to the grand jury instead of reviewing and deciding which ones to pursue in court.

Mr. Gowdy takes office Jan. 10. He said it will be difficult for him to see and decide on all the cases from the grand jury.

Eldon D. Wedlock Jr., a criminal law professor and legal ethics expert at the University of South Carolina's School of Law, said the grand jurors share the blame with Mr. Gossett's office.

"Their duty is to listen to evidence of criminal allegations presented by prosecutors and witnesses, and to act as a screen against vindictive prosecutions or unfounded charges," Mr. Wedlock said.

"They're not taking that duty as seriously as they should."



Staff file photo

Former Ware Shoals High School principal Jane Black well speaks with television reporters in March after warrant against her on obstruction of justice charges was dismissed by judge after she was not indicted within 90 days of the warrant being issued, in accordance with statute.

March was a month of legal
trouble in Greenwood.

The warrant against former Ware Shoals principal Jane Black well on obstruction of justice charges was dismissed by a judge after she was not indicted within 90 days of the warrant being issued, in accordance with statute.

Blackwell's warrant stemmed from the investigation of an incident in which Bill Moore, Ware Shoals' former cheerleading coach and guidance clerk, allegedly purchased alcohol for two minor cheerleaders and put them in a "highly inappropriate" situation involving a sexual relationship she was having with a National Guardsman. Moore also was alleged to have retained a pretrial intervention program in March that, if completed, would expunge her record of all charges. Moore had been charged with contributing to the delinquency of a minor and providing alcohol to minors.

Exhibit 9

WILLIAMS, HENDRIX, STEIGNER & BRINK, P.A.

ATTORNEYS AT LAW
POST OFFICE BOX 849
LEXINGTON, SOUTH CAROLINA 29071
(803) 359-1550 (803) 359-7009
1-800-922-6293
FAX: (803) 359-4543 FAX: (803) 359-7460

ROBERT T. WILLIAMS
JONATHAN R. HENDRIX
CAROLYN B. STEIGNER
W. LISA BRINK
DAUN C. STEIGNER
MICHAEL H. MAY

OFFICES:
200 EAST MAIN STREET
LEXINGTON, SC 29071

311 W. COLUMBIA AVE.
BATESBURG, S C 29006
(803) 532-2730

RDG

February 4, 2000

Rick Hubbard, Assistant Solicitor
c/o Donald V. Myers, Solicitor
Eleventh Judicial Circuit
105 S. Lake Drive
Lexington, SC 29072

RE: State v. James Michael Lucas
Warrant No. G014183, Involuntary Manslaughter

MAY 15 0 .

037

Dear Rick:

This firm represents Mr. Lucas on the charge above. Also with the letter I am enclosing Rule 5
Discovery Motions which I hereby serve upon you.

If you have any questions or concerns, please feel free to call.

Sincerely,



Robert T. Williams, Sr.

RTW/ccs

cc: Client

RULE 5

INVOLUNTARY MANSLAUGHTER

§16-3-60

That **JAMES MICHAEL LUCAS** did, in Lexington County on or about January 29, 2000, with reckless disregard for the safety of others, kill **Crystal Spurck**, to wit: the defendant was cleaning a 30.06 caliber rifle when it discharged and killed the victim, thus constituting an act of criminal negligence, in violation of §16-3-60 of the South Carolina Code of Laws of 1976, as amended.

MAY 15 C-

017

RULE 5

Dear Sir,

I am writing this letter instead of filling out this form. I would like you to know. We believe that James M. Lucas punishment should be 6 mos in Bryans Center mental hospital 1 year Probation. We know this was a accident so we have know hard feeling toward him.

Sincerely,

Mr. Frank T. Spuck
Dana Spuck

RULE 5

MAY 15 01

220

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF GENERAL SESSIONS

COPY

State of South Carolina,)

Warrant No: G014183

Plaintiff)

2000 JUN - 8 A 9 24

vs.)

ORDER

James Michael Lucas,)

Defendant)

Defendant James Michael Lucas was arrested May 27, 2000 as a result of a disorderly conduct charge for Defendant being disorderly at the home of the victim in the above-captioned case. Judge Thomas Rawl, Magistrate for Lexington County, revoked the \$50,000 bond placed on the Defendant for the charge of involuntary manslaughter based on Defendant's violating one of the terms of the bond, that being at the victim's home.

Before me today the 1st day of June, 2000 was the Solicitor, Defendant, Defendant's Attorney, and the mother of the deceased victim, who all indicate that the family of the victim do not seek Defendant's incarceration nor any restrictions on him from coming to the victim's home.

This Court finds that the \$50,000 bond should be reinstated with the following conditions:

- a) Defendant shall refrain from alcohol/drugs;
- b) Defendant shall appear at all times required by the Solicitor for Court;
- c) Defendant shall not violate any laws of the State of South Carolina.

It is therefore Ordered that Defendant's bond is reinstated and Defendant is not required to post any additional bond for the above-referenced charge.

AND IT IS SO ORDERED!

Lexington, South Carolina

June 2, 2000

Gary E. Clary
The Honorable Gary Clary

A TRUE COPY

Thomas H. Clary
Lex. Co. C.C.C.P., G.S. F.C.

FA-00-14

SPURCK, CRYSTAL D.

INTERNAL EXAMINATION:

Per protocol, the remainder of the autopsy was performed with complete examination of the thoracic and abdominal contents. The heart weighed .95 grams and was entirely normal, but externally and internally. The right lung weighed 190 grams, the left 175 grams. These were also entirely normal. The liver weighed 1825 grams, the spleen 140 grams, the right kidney 90 grams, and the left kidney 100 grams. All of these show normal gross features. The pancreas, adrenal glands, upper GI tract, and lower genitourinary tract also showed entirely normal anatomy.

TOXICOLOGY:

Heart blood and bladder urine were obtained for toxicologic studies. The blood alcohol performed at LMC was negative. The urine drug screen was negative for amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine metabolites, and opiates. The specific gravity was 1.022.

MICROSCOPIC DESCRIPTION:

Examination of the organ systems microscopically show entirely normal histology.

CASE SUMMARY:

The autopsy demonstrated a severe traumatic gunshot wound to the forehead and left side of the head consistent with trauma inflicted by a 3006 rifle. The single projectile entered the left forehead, just below the hairline, and exited in the midline of the occiput above the hairline. It caused extremely severe trauma to the entire left side of the head with marked skin tearing and cranial fracture. There was a prominent stippling pattern over the face and anterior neck (see photographs) which confirmed the entrance wound to be in the forehead and the exit wound to be on the posterior occiput. Toxicologic studies were negative.

According to information supplied, the weapon was accidentally fired by a live-in boyfriend while he was cleaning the rifle. The mother of the deceased was also in the room at the time. According to the information supplied, in conjunction with the autopsy findings, there is nothing which would suggest intent and the apparent manner of death is accidental (pending any additional legal investigation which may be indicated).

RM/sgs 1/30/2000

MAY 15 01

197

RULE 5

Exbit 14

CORONER'S INCIDENT REPORT

HARRY O. HARMAN, CORONER
COUNTY OF LEXINGTON
STATE OF SOUTH CAROLINA

Case # 00-075
Permit # 172577

Date: January 29, 2000 Day: Saturday Received: 1800hrs Phone: 1841hrs

Name: Spurck, Crystal DiAnn Race/Sex: W/F Age: 14 Birth Date:
Address: Basil Road, Swansea, South Carolina 29160

Occupation:
Social Security #

Company:
Driver's License #

Marital Status: Single
Next of Kin: Spurck, Frank & DiAnn Relationship: Parents Phone: None
Next of Kin Address: Same address as victim

Attending Physician:
Phone: **Date Last Attended:** **Diagnosis:**

Time of Death: Est. 1700hrs Date of Death: 1/29/00 Place: Residence
Weather Conditions: Cold, rain

Apparent Injuries/Causes of Death:

Manner of Death: Accidental Date, Time, Place of Injury: Saturday,
January 29, 2000 at estimated 1700hrs at Basil Road, Swansea, South Carolina 29160

Determined Cause of Death: A. Gunshot Wound To Head

Deceased Last Seen or Heard From - Day:

Time: **By Whom:**

Where Last Seen:

Witnesses, Address & Phone # Spurck, DiAnn (mother) 17 Basil Rd. Swansea, S.C.

Funeral Home: Culler-McAlhaney Funeral Home, North, South Carolina

MAY 15 01 199
Deputy Coroner Todd Caughman
Sr. Dep. Coroner Edward V. Hite

RULE 5

Exhibit 15

FA-00-14
SPURCK, CRYSTAL D
MO01439658
145786277

DATE/TIME OF DEATH: 01/29/2000 1700 PROSECTOR: MCMASTER, KITT R., MD
DATE/TIME OF AUTOPSY: 01/30/2000 1100 ASSISTANT: HITE, EDWARD V
RESTRICTIONS: None CORONER: Caughman, Todd S.

FINAL AUTOPSY DIAGNOSES:

- I. GUN SHOT WOUND TO HEAD.
- II. TOXICOLOGY STUDIES: NEGATIVE.

CAUSE OF DEATH: GUN SHOT WOUND TO HEAD.

MANNER OF DEATH: ACCIDENTAL

RM/sgs 1/31/2000

Kitt R. McMaster, MD
CERTIFIED ELECTRONIC SIGNATURE

Date Finalled: 02/02/2000

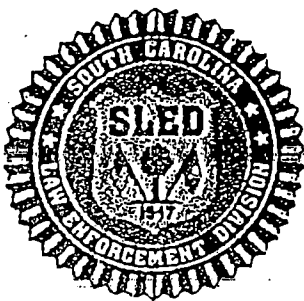
RULE 5

MAY 15 02

191

(Continued on next page)

Exbit 16



Department of Child Fatalities Case Report Data Sheet

Region: Low Country Midlands Pee Dee Piedmont

County: Lexington

Case Number: 55-00-0010

Case Agent: S/A Caynon

Date of Incident: 1/29/00

Other Agent: _____

Date Agent Notified: 2/9/00

Date DSS Notified: 1/1/00

Case Status: Closed Date: 1/1/00

Manner of Death: Unintentional Injury: (Accident) Intentional Injury: Homicide / Suicide

Natural

Undetermined

Victim Information

Name: Crystal Spawick

DOB: [REDACTED]

Age: Wks: _____ Mos.: _____ Yrs.: 14

Sex: Male Female

Ethnicity: Caucasian Black Hispanic Other: _____

DOB: 1/29/00 TOD(military time): 17:00 hrs Body Temp: _____ °C

Name: _____ DOB: 1/1/00

Age: Wks: _____ Mos.: _____ Yrs.: _____ Sex: Male Female

Ethnicity: Caucasian Black Hispanic Other: _____

DOB: 1/1/00 TOD(military time): _____ hrs Body Temp: _____ °C

Received 3/22/2000

THIS IS A TRUE COPY OF THE RECORDED FILE IN THE LEXINGTON COUNTY HEALTH DEPARTMENT

MAR 13 2001

Ray Griffin

Exhibit 18

PE/PRINT
IN
PERMANENT
LACK INK
FOR
INSTRUCTIONS
SEE
OTHER SIDE
HANDBOOK

6

9a.

US

9d.

22

Pronouncing

See

15

22a.

12b.

13a.

13c.

STATE OF SOUTH CAROLINA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CERTIFICATE OF DEATH

00 004669
STATE FILE NUMBER

STATE BIRTH NUMBER

DECEDENT'S NAME First Middle Last SEX DATE OF DEATH (Month, Day, Year)
Crystal DiAnn SPURCK Female Jan. 29, 2000

SOCIAL SECURITY NUMBER AGE - Last Birthday (Years) UNDER 1 YEAR UNDER 1 DAY DATE OF BIRTH (Mo., Day, Year) BIRTHPLACE (City, and State or Foreign Country)
14 Months Days Hours Minutes 6. Edison, N.J.

WAS DECEDENT EVER IN U.S. ARMED FORCES? (Yes or No) HOSPITAL: ☐ Inpatient ☐ ER/Outpatient ☐ DOA OTHER: ☐ Nursing Home ☒ Residence ☐ Other (Specify)

FACILITY NAME (If not institution, give street and number) CITY, TOWN, OR LOCATION OF DEATH COUNTY OF DEATH
Basil Road Swansea Lexington

MARITAL STATUS - Married, Never Married, Widowed, Divorced (Specify) SURVIVING SPOUSE (If wife, give maiden name) DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.) KIND OF BUSINESS/INDUSTRY
Never married 11. Student 12a. Public High School

RESIDENCE - STATE COUNTY CITY, TOWN, OR LOCATION STREET AND NUMBER INSIDE CITY LIMITS? (Yes or No)
S.C. Lexington Swansea Basil Road No

ZIP CODE Was Decedent of Hispanic Origin? (Specify Yes or No - If yes, specify Cuban, Mexican, Puerto Rican, etc.) RACE - American Indian, Black, White, etc. (Specify) DECEDENT'S EDUCATION (Specify only highest grade completed) College (1-4 or 5+)
29160 14. ☐ Yes ☒ No (Specify) 15. White 16. 8

FATHER'S NAME First Middle Last MOTHER'S NAME First Middle Maiden Surname
Frank Thomas Spurck DiAnn Griffin

INFORMANT'S NAME (Type/Print) MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)
Mrs. DiAnn Spurck Basil Road, Swansea, S.C. 29160

METHOD OF DISPOSITION PLACE OF DISPOSITION (Name of cemetery, crematory, or other place) LOCATION - (City or Town, State)
☒ Burial ☐ Cremation ☐ Removal from State 20a. Sardis Baptist Cemetery 20c. Swansea, S.C.

FUNERAL DIRECTOR OR PERSON ACTING AS SUCH (Signature) FUNERAL DIR. LICENSE NO. NAME AND ADDRESS OF FACILITY LICENSE NUMBER (of facility)
21a. 21b. 1124 Culler-McAlhany Funeral Home 22a. 273

EMBALMER (Signature) EMBALMER LICENSE NO. 22b. North, S.C. 29112-0096

Complete Items 23a-c only when certifying physician is not available at time of death to certify cause of death. To the best of my knowledge, death occurred at the time, date, and place stated. LICENSE NUMBER DATE SIGNED (Month, Day, Year)
23a. Signature and Title 23b. 23c.

TIME OF DEATH DATE PRONOUNCED DEAD (Month, Day, Year) WAS CASE REFERRED TO MEDICAL EXAMINER/CORONER? (Yes or No)
24. Est. 5:00 P.M. 25. January 29, 2000 26. Yes

27. PART I. Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. Approximate Interval Between Onset and Death
Pending Gun Shot Wound to Head

IMMEDIATE CAUSE (Final disease or condition resulting in death) a. DUE TO (OR AS A CONSEQUENCE OF) DHEC 627 03-10-00 nl per Sr. Deputy Coroner Hite

Sequentially list conditions, if any, leading to immediate cause. Enter UNDERLYING CAUSE (disease or injury that initiated events resulting in death) LAST b. DUE TO (OR AS A CONSEQUENCE OF):

c. DUE TO (OR AS A CONSEQUENCE OF): MAY 15, 01 C30

PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I. AUTOPSY (Yes or No) IF YES, WERE AUTOPSY FINDINGS CONSIDERED IN DETERMINING CAUSE OF DEATH? (Yes or No)
28a. Yes 28b. Yes

29. MANNER OF DEATH DATE OF INJURY (Month, Day, Year) TIME OF INJURY INJURY AT WORK? (Yes or No) DESCRIBE HOW INJURY OCCURRED Victim was shot by another due to negligence
☒ Natural ☒ Pending ☐ Accidental ☐ Suicide ☐ Homicide ☐ Could not be Determined 30a. 01-29-00 30b. Est. 5:00 P.M. 30c. No 30d.

PLACE OF INJURY - (Home, Farm, Street, Factory, Office, etc.) (Specify) LOCATION (Street and Number or Rural Route Number, City or Town, State)
30a. Home 30b. Basil Rd. Swansea, S.C. 32/29

CERTIFIER (Check only one) ☐ CERTIFYING PHYSICIAN (Physician certifying cause of death) ☐ MEDICAL EXAMINER ☒ CORONER NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER
☐ PRONOUNCING AND CERTIFYING PHYSICIAN (Physician both pronouncing death and certifying to cause of death)

SIGNATURE AND TITLE OF CERTIFIER To the best of my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner as stated. LICENSE NUMBER DATE SIGNED (Month, Day, Year)
31a. Sr. Dep. Coroner 33b. February 2, 2000

NAME AND ADDRESS OF PERSON WHO SIGNED IN 31a. (Type/Print)
34. Edward V. Hite, 117 Duffie Drive, Lexington, South Carolina 29072

JIM HICKMAN -DIRECT- BY MR. SPRADLEY

1 A Yes, sir.

2 MR. SPRADLEY: I will publish this to the
3 jury at this time, Your Honor.

4 THE COURT: You may.

5 BY MR. SPRADLEY:

6 Q And State's Exhibit Number 22, can you describe
7 what is in that picture.

8 A Yes, sir. This is a close-up view of that hole
9 where the bullet went into the speaker. You can
10 see that it has been moved, and I just did that
11 to make it a little bit easier for me.

12 There was blood on the floor in the corner.
13 So I didn't want to step on this. So I just
14 moved the speaker over to take the picture and
15 remove the projectile.

16 MR. SPRADLEY: I will publish this to the
17 jury at this time, Your Honor.

18 THE COURT: You may.

19 BY MR. SPRADLEY:

20 Q So that is the hole where you found the bullet?

21 A Yes, sir.

22 Q And you recovered that bullet from that hole?

23 A Yes, sir.

24 Q In taking this picture, the only thing you did
25 was remove the speaker from the nightstand and

SAMUEL GUNTER -RECROSS- BY MR. WILLIAMS

1 the chamber or around the chamber of the gun
2 where he was having a gun to unload or cycle
3 back, doing whatever he was trying to do with
4 it.

5 Q There was something jammed in the weapon that
6 wouldn't come out?

7 A Possibly. I don't know.

8 Q You were there when he was doing it. You say
9 that there was something in the weapon. Was
10 there something jammed in this weapon?

11 A There was something -- I am not a firearms
12 expert. So what I'm telling you is he was
13 trying to cycle it out to get whatever was in
14 there out and was having some difficulty with
15 it.

16 Q And it couldn't come out?

17 A Yes, sir.

18 Q Aside from that, there was only one round in
19 here that was jammed in here; is that correct?

20 A As far as I know.

21 Q Well, did you look at it?

22 A At what, at the chamber of the firearm?

23 Q Yes.

24 A No, sir.

25 Q But you knew he was having a problem with

Exbit 20

SAMUEL GUNTER -RECROSS- BY MR. WILLIAMS

1 something jammed in here?

2 A Yes, sir. I know he was having a problem
3 getting it to be in that condition there where
4 it's conferred safe.

5 Q It wasn't discharging the shell properly; is
6 that correct?

7 A I don't know if there was a shell. I know he
8 could not get it where the slide thing would
9 stay back to where it would be considered safe.

10 Q Okay. Thank you.

11 A You're welcome.

12 THE COURT: Detective, you may come down.

13 THE WITNESS: Thank you, sir.

14 MR. SWARAT: I would ask that he be
15 excused.

16 MR. WILLIAMS: No objection, Your Honor.

17 THE COURT: You are free to leave. Call
18 your next witness.

19 MR. SPRADLEY: The State would call
20 Detective Jim Hickman.

21 JAMES L. HICKMAN, being
22 first duly sworn, testified as follows:

23 MR. WILLIAMS: Your Honor, we have a matter
24 we would like to take up with the Court, and we
25 probably should do it outside the presence of the

JIM HICKMAN -DIRECT- BY MR. SPRADLEY

1 ~~two into evidence~~

2 MR. WILLIAMS: No objection.

3 ~~THE COURT:~~ State's 31 and 32, photographs,
4 in evidence without objection.

5 (State's Exhibit Number 31 and 32,
6 photographs of the oil can, are received into
7 evidence.)

8 MR. SPRADLEY: Your Honor, I will publish
9 these to the jury at this time.

10 THE COURT: You may.

11 BY MR. SPRADLEY:

12 Q Detective Hickman.

13 A Yes, sir.

14 Q In these pictures is the cap on top of the oil
15 can?

16 A Yes, sir.

17 Q And that's the way you found it when you arrived
18 at the house?

19 A Yes, sir.

20 Q So this can is exactly the way you found it on
21 top of that T.V. set?

22 A Yes, sir.

23 Q Red cap and all?

24 A Yes, sir.

25 MR. SPRADLEY: Beg the Court's indulgence

Exbit 21

Oil Can

JIM HICKMAN -DIRECT- BY MR. SPRADLEY

1 found sitting on the T.V. set in the Defendant's
2 room -- I mean -- in the victim's room. Excuse
3 me.

4 Q Is it in the same condition as it was when you
5 found it that night?

6 A Yes, sir, with the exception that it has
7 developed a leak and it's a little oily now.

8 MR. SPRADLEY: Your Honor, I move this into
9 evidence as State's Exhibit 30.

10 THE COURT: State's 30, a bag containing an
11 oil can is in evidence without objection.

12 (State's Exhibit Number 30, oil can in bag,
13 is received into evidence.)

14 BY MR. SPRADLEY:

15 Q I will show you two photographs and see if you
16 recognize those.

17 A Yes, sir, I do.

18 Q What do those pictures show?

19 A The first one here is a shot of the side of the
20 room showing the television set, the oil can
21 sitting on it, and certain items on the floor.
22 This was taken by me. The other shot is another
23 shot of the television set, and again it shows
24 the oil can sitting on the T.V. set.

25 MR. SPRADLEY: Your Honor, we move these

DIANN SPURCK -DIRECT- BY MR. WILLIAMS

1 Q Where was the blood located on you?

2 A On my back, on my pants and the back of my
3 shirt.

4 Q You testified just a few minutes ago that Mike
5 was cleaning the gun and that it was an
6 accident?

7 A Yes, sir, it was.

8 Q Is there any question in your mind?

9 A Any question in my mind what?

10 Q As to whether or not it was an accident,

11 A No. Nobody in this room can convince me that
12 boy meant to do that. I will not be convinced
13 of that. I don't care. Mike is not that type
14 of a person. He thought too much of Crystal.
15 He was good to Crystal. Mike never would have
16 hurt that girl, Theo.

17 Q When he was cleaning it, did he have anything
18 out to clean it with?

19 A He had a rag and some oil.

20 Q Did you give your statement to the police when
21 they came?

22 A Yes, sir, I did.

23 Q Did you love Crystal?

24 A Yes, I loved Crystal. I still do.

25 Q Answer any questions the solicitor may have for

Exhibit 22

7-11-10

Mistrial Motion

1 leave.

2 THE WITNESS: Thank you.

3 THE COURT: Ladies and gentlemen, at this
4 point we will recess for lunch. Of course, while you
5 are out, do not begin your deliberations. Don't
6 discuss the case among yourselves or allow anybody to
7 talk to you about the case or talk about it in your
8 presence. If you will return to your jury room,
9 please, by 2:00 o'clock, we will resume the trial at
10 that time. Thank you.

11 (The jury is excused for lunch at
12 12:38 p.m.)

13 THE COURT: Anything from the State before
14 we recess?

15 MR. SPRADLEY: Nothing further.

16 THE COURT: Anything from the Defendant?

17 MR. WILLIAMS: Nothing from the defense.

18 THE COURT: We had a side bar discussion
19 about some testimony and you just mentioned in the
20 discussion -- I didn't take it as a motion, a
21 mistrial motion -- but you don't wish to pursue that,
22 do you?

23 MR. WILLIAMS: No, sir.

24 THE COURT: Very well. I just wanted to
25 revisit that because I wanted to give you an

Exhibit 22 (A)

1 opportunity if you did.

2 MR. WILLIAMS: Thank you.

3 THE COURT: How many additional witnesses
4 do you anticipate from the State's prospective at
5 this point? I am not holding you to that. I am just
6 trying to get a feel for planning.

7 MR. SWARAT: Your Honor, possibly six.

8 THE COURT: Six?

9 MR. SWARAT: Yes, sir. Your Honor, I want
10 to put something on the record. Prior to Detective
11 or Agent Collins testifying, we were going to call
12 the former owner of the gun.

13 THE COURT: Yes, sir.

14 MR. SWARAT: I didn't mean any disrespect
15 to the Court whatsoever. My understanding in talking
16 with Agent Collins is he had a limited time with this
17 particular firearm. The individual that owned it
18 less than a month prior to it coming into the
19 possession of Mr. Lucas owned it for 13 years and had
20 never had any trouble with it whatsoever.

21 (THE COURT: How many firearms have you
22 owned in your life?)

23 MR. SWARAT: I believe four, Your Honor.

24 (THE COURT: Have you ever had a gun that
25 worked every time you had it and then one day it)

1 (didn't work? Because I have. I have and a number of
2 people I have hunted with have, too?)

3 That's my purpose. Again, the purpose of
4 all this is to simply determine -- and I told you
5 then and I tell you now -- the probative value is
6 outweighed by the prejudice at this point.

7 However, I am not ruling on that
8 permanently. I remind you that you have an
9 opportunity -- I don't know what testimony we are
10 going to have. I don't know about that. If there is
11 testimony that, "I had problems with this," then
12 that's fine.

13 The testimony that it had a problem one
14 time, on reply I may consider that testimony; but
15 right now I didn't feel it was probative. That was
16 the purpose of it. If you want to proffer that
17 testimony for preservation of the record and
18 presentation of your case, please feel free to do
19 so.

20 MR. SWARAT: No, sir. Maybe I am stating
21 it incorrectly.

22 THE COURT: We don't need to keep going
23 there.

24 MR. SWARAT: Maybe I am stating it
25 improperly. My reason for calling him was to educate

Exhibit 22 (B)

1 the jury about the history of this gun. That was my
2 only purpose.

3 THE COURT: I understand clearly the
4 reason. I think the whole purpose -- as I said to
5 you that I understand your reason. I said that
6 because apparently the defense was going to oppose
7 that, so the purpose of that was just to simply tell
8 you that if you want to present him, you can.

9 But the minute you start asking him
10 questions along those lines and they object as to,
11 one, on relevance and/or a 403 exception, I was
12 telling you I was going to sustain that objection,
13 only to give you an indication of whether you wanted
14 to present that witness and have him interrupted in
15 the middle of the testimony.

16 MR. SWARAT: Yes, sir, I do understand
17 that.

18 THE COURT: Thank you, sir.

19 MR. SWARAT: Yes, sir.

20 (Whereupon there was a luncheon recess.)

21 MR. SPRADLEY: Your Honor, I was going to
22 inform the Court that Jimmy Leatherman from S.L.E.D.
23 is in the courtroom. We are not planning on calling
24 him.

25 THE COURT: Any objection to his remaining?

1 Now, ladies and gentlemen, Brenda Stevenson
 2 may be a lot of things; but she is the only person
 3 that picked up the phone and called law enforcement
 4 about the situation. She is the only one who did it.
 5 When she had that conversation with Michael Lucas,
 6 she picked up the phone and called Detective
 7 Kirchner.

8 I submit to you that if she had not picked
 9 up that phone and we had not gotten Steve Derrick
 10 involved in this case and not done some of the
 11 things that were done after the phone call, this
 12 whole bunch of paperwork and everything with it would
 13 have been locked away in a box somewhere; and he
 14 would have walked away laughing at justice, gotten
 15 away with this "accident."

16 She put the wheels in motion. She told the
 17 police about that conversation. "I killed one. I
 18 would kill again. I would kill you. I am not going
 19 to catch any time for killing Crystal, and I wouldn't
 20 catch any time for killing you."

21 If it's an accidental shooting, what human
 22 being would say something like that about somebody
 23 they accidentally killed, about the true tragedy?
 24 What human being would say something like that?

25 Maybe somebody with malice in his heart.

Exhibit 23

Exhibit 13

For people

1 November, September, October, around that time.

2 You know that they lived there together
3 alone. When the power got caught off, they moved in
4 together with Mike Lucas' parents. That tells you a
5 little bit of something about a person. It tells you
6 a little bit about the situation.

7 You can believe her and everything she
8 told you if you choose to. We are testing her
9 credibility. I don't like always like my job. I
10 would never in any way, shape or form ask the
11 mother of a dead child some of the questions I had
12 to ask that woman if there is any basis in reality
13 to it and if it weren't important to your
14 consideration.

15 I apologize that I had to do that. But
16 that household, this situation, these facts, this
17 crime puts it there. There is no choice in the
18 matter. It's important and you have to know.
19 It's important to your determination of that
20 credibility.

21 You can decide whether or not she is having
22 a relationship with Mike Lucas. You can decide
23 whether that is credible or not. Who tells you a
24 little bit about her -- and what she has told you
25 herself -- was Brenda Stevenson.

WARR-E004766

COURT CHARGE 04-FRAUDULENT
CHECK
COURT DISP-NON-CONVICTION;
DISMISSED

WARR-E004480

DISMISSED
COURT CHARGE 05-FRAUDULENT
CHECK
COURT DISP-NON-CONVICTION;
DISMISSED
COURT CHARGE 06-FRAUDULENT
CHECK
COURT DISP-NON-CONVICTION;
DISMISSED

WARR-E004753

TEVENSON, BRENDA JEAN
0320000 LEXINGTON CNTY SO
4 SE-9806687
WARR-F434841

02/26/1998

WARR-F434842

ARREST CHARGE 01-OMNIBUS
ADULT PROTECTION
PHOTOGRAPH AVAILABLE

T-43-35-85(D)
C-98GS3202641 WARR-F434841

ARREST CHARGE 02-OMNIBUS
ADULT PROTECTION

~~COURT CHARGE 01-EXPLOITATION
OF VULNERABLE ADULT~~

T-43-35-85(E) FELONY
C-98GS3202640 WARR-F434842

~~COURT DISP-CONVICTED: 5 YRS
SUSP DURING PROBATION.
SENTENCE IS CONSECUTIVE.
COURT DATE-09/14/1999~~

T-16-13-230(B)(2)-FELONY
C-98GS3202643

COURT CHARGE 02-THREAT/INTIMI
DATE/ATTEMPT(ADULT PROTECT
ION ACT
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-09/14/1999

~~COURT CHARGE 03-BREACH OF
TRUST/INTENT VALUE
>\$1,000
COURT DISP-CONVICTED: 5 YRS
SUSP 5 YRS PROBATION 4445
RESTITUTION PAID
COURT DATE-09/14/1999~~

CIT-C/L
JDC-R84

PHOTOGRAPH AVAILABLE

COURT CHARGE 01-FRAUDULENT
CHECK
COURT DISP-NON-CONVICTION;
DISMISSED
COURT DATE-05/16/1994

STEVENSON, BRENDA JEAN
C0020000 AIKEN CNTY SO

05/24/1994

ASE-0009410078
ARR-E115741

ARREST CHARGE 01-FRAUDULENT
CHECK

TEVENSON, BRENDA JEAN
C0380000 ORANGEBURG CNTY SO
ARR-D316462

06/30/1994

ARREST CHARGE 01-PETTY LARCEN
Y

ARR-E004754

ARREST CHARGE 02-FRAUDULENT
CHECK

ARR-E004994

ARREST CHARGE 03-FRAUDULENT
CHECK

ARR-E004765

ARREST CHARGE 04-FRAUDULENT
CHECK

ARR-E004766

ARREST CHARGE 05-FRAUDULENT
CHECK

ARR-E004480

ARREST CHARGE 06-FRAUDULENT
CHECK

ARR-E004753

ARREST CHARGE 07-FRAUDULENT
CHECK

ARR-D310292

ARREST CHARGE 08-FRAUDULENT
CHECK

ARR-E004754

COURT CHARGE 01-FRAUDULENT
CHECK

ARR-E004994

COURT DISP-NON-CONVICTION;
DISMISSED

COURT CHARGE 02-FRAUDULENT
CHECK

Exhibit 25

1 MS. SHURLING: Your Honor, I'm not entirely
2 sure the scope of your ruling. My next question I would
3 like to ask is whether this witness ever paid Brenda
4 Stevenson any money for any services. May I proffer
5 that question?

6 THE COURT: You may.

7 BY MS. SHURLING:

8 Q Did you ever pay Brenda Stevenson any money to do
9 anything for you?

10 A Oh, no.

11 Q Did you pay her any money to do anything for your
12 grandson?

13 A Yes. She said that she was -- DiAnn called --

14 MS. TODD: Object to hearsay.

15 BY MS. SHURLING:

16 Q What services did you pay Ms. Stevenson to perform?

17 A She was going to get Michael Lucas a disability
18 check. She said she had to have -- she worked at
19 the Social Security Administration, and she needed
20 \$50, and she sent her daughter by and I gave her
21 the \$50.

22 Q And did your grandson subsequently receive
23 disability payments?

24 A Oh, no.

25 Q Did you ever get your \$50 back?

1 A Oh, no.

2 MS. SHURLING: No further questions, Your
3 Honor.

4 THE COURT: Cross examination?

5 MS. TODD: I have no questions for Ms. Lucas.

6 THE COURT: Yes, ma'am. Thank you. You may
7 take your seat. Obviously you are free to go if you
8 wish. I know you have been here all day. Call your
9 next witness, please.

10 MS. SHURLING: Milo Lucas, please.

11 JAMES MILO LUCAS, being
12 first duly sworn, testified as follows:

13 THE COURT: If you would please state your
14 full name for the record.

15 THE WITNESS: James Milo Lucas.

16 THE COURT: Your witness.

17 **DIRECT EXAMINATION**

18 BY MS. SHURLING:

19 Q Mr. Lucas, is that your mother that just testified?

20 A Yes, ma'am.

21 Q And that would make you my client's father,
22 correct?

23 A Right.

24 Q Did you hire Mr. Theo Williams to represent your
25 son?

1 Q Okay.

2 A So it just got worse and kept getting worse.

3 Q How so?

4 A Well, they didn't really do any forensic work on
5 this case until many months after the death.

6 Q What prompted that, do you know?

7 A I think Tav got involved --

8 Q Okay.

9 A -- if you want to know the truth. I don't think
10 Chris Spradley was going to do that. I think Tav
11 got involved. He is a very intelligent man. He
12 was going to check into it more.

13 Q And had there been any plea negotiations at that
14 point?

15 A Christmas time, the year was I want to say 2001.

16 Q I believe that the trial took place in 2001. The
17 death occurred in?

18 A 2000.

19 Q In January of 2000.

20 A There was an offer shortly before Christmas
21 whatever year it was, for Johnny (sic) to get a
22 three-year sentence. We went up to the courthouse,
23 and we went into the little room which used to be
24 at the end of the courthouse.

25 I tried to convince him at that point in time

1 that he needed to plead to the three years that
2 were being offered, and he said that he was not
3 going to plead to three years because he wasn't
4 going to spend Christmas in jail.

5 Q Okay.

6 A So as you see it kept going worse.

7 THE COURT: You said Johnny. Did I hear
8 Johnny, the word Johnny? You said you spoke to Johnny.

9 THE WITNESS: I meant Mr. Lucas.

10 THE COURT: I will ask you to use last names
11 for me, please.

12 THE WITNESS: Last names. Mr. Lucas, the
13 Defendant Lucas.

14 THE COURT: Your client?

15 THE WITNESS: Right.

16 BY MS. TODD:

17 Q And after that point in time, was that
18 approximately when Mr. Swarat became involved in
19 the case?

20 A Yes.

21 Q Then what happened?

22 A Well, then he got a hold of Steve Derrick to do
23 some blood spatter work. Of course, I was -- I
24 didn't have any idea that they were doing that.

25 Q Okay.

1 A But he went to putting it together from a different
2 angle. I didn't think they could in all honesty.
3 I thought so much time had gone by that any expert
4 really wouldn't be involved in doing all that.

5 Q Now, Mr. Lucas, the applicant Lucas?

6 A Right.

7 Q Had rejected the three-year offer, and you
8 communicated that with the State? You communicated
9 that to the State?

10 A I did tell the State that he turned it down, the
11 solicitor for the State, who at that time was Chris
12 Spradley.

13 Q So we are now a year after the shooting. At what
14 point in time did it become a murder case?

15 A It became a murder case as soon as he was indicted,
16 which would have been April of 2001, I believe,
17 April 20, 2001, I think.

18 Q Before that time had you considered employing any
19 experts?

20 A No.

21 Q Why is that, sir?

22 A Many reasons.

23 Q Okay.

24 A Number one, it was never treated as a murder case
25 originally by the Solicitor's Office. Number two,

1 in terms of access to the areas, we were of the
2 impression, both Mr. Lucas and myself, that things
3 had moved around in the trailer, that there had
4 been changes in the trailer.

5 We really didn't think that it would help in
6 all honesty to prove that he was not guilty, which
7 is something we shouldn't have to prove to begin
8 with. And having heard the experts today, I would
9 not change that because they backed up essentially
10 what the prosecutor said.

11 Q You have anticipated several of my questions here.

12 A Sorry.

13 Q That's perfectly fine. Once the case changed to a
14 murder case, did you change your mind about experts
15 at all? Did you consider experts?

16 A No, because it's a question of intent. The best
17 witness they had -- but he's not the best. It's a
18 catch 22. To prove that he didn't mean to kill
19 Crystal -- referring to Mr. Lucas -- you somehow
20 are going to have to get into the psyche of the
21 person who is doing the shooting, but to do that
22 you open up all these character issues. So it's a
23 double-edge sword.

24 Q So you didn't find that experts would have been
25 helpful to you after he had been indicted for

1 THE COURT: Very well. You can come down,
2 Mr. Lucas. Any additional witnesses, Ms. Shurling?

3 MS. SHURLING: No, ma'am.

4 THE COURT: Very well. Counsel, I will
5 consider the issues raised.

6 MS. SHURLING: Yes, ma'am.

7 THE COURT: ~~I think I'm going to ask for~~
8 ~~proposed orders on this case.~~ You all want to confer
9 for just a moment and see. I think we talked about that
10 the other day, mid January.

11 MS. SHURLING: For the other one, yes, ma'am.

12 THE COURT: Why don't we put this to the end
13 of January.

14 MS. SHURLING: Yes, ma'am.

15 THE COURT: February 1st.

16 MS. SHURLING: An additional consideration to
17 beg from the Court?

18 THE COURT: Sure, of course.

19 MS. SHURLING: Would it be possible for us to
20 agree that the transcript would be ordered in this
21 proceeding and shared by the parties in some way. In
22 the first case I am ordering it. I am retained counsel
23 in that case as well, but the family is going to pay to
24 order the transcript.

25 The Lucas' pooled their resources to hire me

1 MS. SHURLING: My client has a rather long
2 sentence. If it necessitated even a 30-day delay in
3 resolving this matter to even March 1st, I think it
4 would be worth it.

5 THE COURT: Y'all approach.

6 (Whereupon there was a bench conference off
7 the record).

8 THE COURT: That would conclude this
9 particular matter. I will look to get those orders from
10 you. We talked about February 1st, but that may or may
11 not be realistic depending on the matters in the hopper
12 with our court reporter.

13 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
14
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25

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

Dear Theo,

PLEA OFFER

1. Date 5/8/00
2. State v. James Lucas
3. Charges: BMV, PL
4. Offer: As-charged - recommend probation
5. ☒ Recommendation ☐ Negotiation
☐ Without Recommendation or Negotiation
6. Restitution \$ 200

Please call me by as soon as possible to discuss this offer or schedule the plea. Please inform your client that if he/she does not plead by 6/12/00, the offer will be withdrawn and the case is subject to being called for trial as soon thereafter as possible.

Sincerely,

Shawn Graham
Shawn Graham
Assistant Solicitor

STATE OF SOUTH CAROLINA
COUNTY OF WILMINGTON
STATE OF SOUTH CAROLINA

Ticket or Warrant No. 6221918/919
IN THE () COURT OF GENERAL SESSIONS
() MAGISTRATE'S COURT
() MUNICIPAL COURT OF

Name of Defendant James Michael Lucas

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

(Bail Proceeding Form 2)

Offense Charged: Peter Lay

At a bail proceeding conducted by undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☒ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☒ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

[Considerations: Nature and circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check one):

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina, deposits \$_____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant acknowledges himself to be indebted to the State of South Carolina in the sum of \$_____, his release to be obtained by payment to the court of _____ (%) of this bond in cash, this amount being \$_____. The defendant will be obligated to the State in the full amount of \$_____, such sum to be levied on his real and personal property for the use of the State, should he fail to perform the conditions of this Order.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☒ The defendant will provide good and sufficient surety approved by the court, in the form set forth on the reverse side, acknowledging an indebtedness to the State in the amount of \$ 2500

3. That the defendant shall appear at (check one):
☒ the term of the court of general sessions beginning on [Date:] 6-12-2000 at [Time:] 9:00 o'clock, A.M., at [Place:] Wilmington County Court House
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.
☐ the session of magistrate/municipal (circle one) court beginning on [Date:] _____ at [Time:] _____ o'clock, _____ M., at [Place:] _____. If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Initials of Defendant J.M.

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described on the reverse side, which are marked.

Signature of Judge [Signature]

Date 4/30/00

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, including any conditions included on the reverse side of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, an additional criminal charge will be instituted against me. If the failure to appear is in connection with a felony charge, or while awaiting sentence, or pending appeal or certiorari after conviction, the penalty is a fine of not more than \$5,000 or imprisonment for not more than five years, or both; if I fail to appear in connection with a misdemeanor charge, the penalty is a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

I acknowledge the receipt of a copy of this Order and understand the conditions of my release and the penalties applicable to me in the event I violate any condition of the Order or fail to appear as required.

Address 1023 Blackville Rd

Signature of Defendant James M Lucas

City/State/Zip Georgetown SC 29053

Date 4/30/00

Social Security Number/Telephone No. 568-4920

Attorney Representing Accused (If known)

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED.

Original copy for the Trial Court - Copy for the Defendant

SPECIAL CONDITIONS OF RELEASE

- a. ☐ Placement in custody. The defendant is placed in the custody of: _____

 Name of person or organization

 Address _____ City _____ State/Zip _____ Telephone _____
 who agrees (1) to supervise the defendant in accordance with conditions set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

 Signature of Custodian (If Appointed) _____ Date _____
- b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

- c. ☐ Part-time Release. The defendant will be released from custody from _____ o'clock, _____ M. to _____ o'clock, _____ M. on _____
 _____ at _____ on condition that he return to the custody of _____ as designated.
- d. ☐ Other Conditions. The defendant will comply with the following other conditions of release:

APPEARANCE RECOGNIZANCE WITH SURETY

On the 30th day of April, 2000, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$ 3120, such sum to be levied on his real and personal property for the use of the State, if the within named defendant shall fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

A-1 BONDING & SURETY, INC.
 Name of Surety (Printed) _____
 P.O. BOX 3322
 Address of Surety _____

 City/State/Zip _____
 (803) 642-5190

Signature of Surety _____
 Signature of Judge _____
 Date _____

Form Approved by
 S.C. Attorney General
 Section 17-15-40
 March 7, 1990

LAW OFFICE OF



TARA DAWN SHURLING, PA

Attorney and Counselor at Law

3614 Landmark Drive

Suite D

Columbia, South Carolina 29204

E-Mail: tdslaw@bellsouth.net

(803) 738-8622

(Fax) (803) 738-1600

February 15, 2007

James Michael Lucas, 276323
Lee Correctional Institution Kershaw South Rm. 1158
990 Wisacky Highway
Bishopville, SC 29010

Re: James Michael Lucas, 276323 v. State of South Carolina; 03-CP-32-0771.
Client No.: 02-12-00-1575

Dear Mr. Lucas:

I enclose a copy of the PCR Transcript in your case. This hearing was held on November 28 & 29, 2006 before the Honorable Diane S. Goodstein. I thought that you would like a copy of this for your records. I am working on a Proposed Order for Judge Goodstein right now. As soon as it is finished I will send you a copy. If you have any questions or concerns, please feel free to contact this office. For now, I remain,

Sincerely yours,

A large, stylized handwritten signature in black ink, appearing to read 'Tara Dawn Shurling'.

Tara Dawn Shurling
Attorney and Counselor at Law

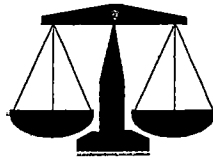
TDS/bdp

cc: James Milo and Debbie Lucas ✓

Exbit 33

Exhibit 6

LAW OFFICE OF



TARA DAWN SHURLING, PA

Attorney and Counselor at Law

3614 Landmark Drive

Suite A

Columbia, South Carolina 29204

Christina Dixon Parnall

Associate Attorney

(803) 738-8622

Fax (803) 738-1600

E-Mail: tdslaw@shurlinglw.com

January 5, 2012

James Michael Lucas, 276323
Lee Correctional Institution
990 Wisacky Hwy
Bishopville, S. C. 29010

RE: James Michael Lucas, 276323 v. State of South Carolina

Dear Mr. Lucas:

I am in receipt of your letter dated December 12, 2011 requesting all of the documents in your PCR case. Your closed file with my office is in offsite storage, but in October 2008 I forwarded all of your documents to the SC Commission on Indigent Defense, Office of Appellate Defense, for them to compile the Appendix in your PCR appeal. They should have furnished you with a copy of the Appendix when the Petition for Writ of Certiorari and Appendix were filed. I have attached a list of the documents that were forwarded to them. I hope this helps you. I remain,

Sincerely yours,

A large, stylized handwritten signature in black ink that reads "Tara Dawn Shurling".

Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sm
Enclosure

Exhibit 34

James Michael Lucas

Documents forwarded to Appellate Defense 10/28/08



Record on Appeal / Transcript of Record dated May 22, 2002.
Notice of Intent to Appeal filed on July 9, 2001.
Initial Anders Brief and Petition to be Relieved as Counsel dated March 6, 2002.
Pro Se Anders Brief of appellant dated May 13, 2002.
Dismissal from the Court of Appeals filed February 5, 2003.
The Application for Post-Conviction Relief filed on February 26, 2003.
Amended Application for Post-Conviction Relief filed on October 10, 2005.
Second Amended Application for Post-Conviction Relief filed on July 20, 2006.
Third Amended Application for Post-Conviction Relief filed on July 21, 2006.
The State's Return
PCR Transcript of November 28 and 29, 2006.
The Clerk of Court's records in this matter
The Order of Dismissal
59(e) Motion to Alter or Amend
Order Denying 59(e) Motion to Alter or Amend
Notice of Appeal
Affidavit of Indigency

Exhibit 34 (A)



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Joseph L. Savitz, III, Chief Attorney
Wanda H. Carter, Deputy Chief Attorney

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

October 5, 2009

Mr. James Michael Lucas, #276323
Lee Correctional Institution
Richland C-208
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Lucas:

I have read your letter. I wanted to let you know that the State's Return is due to be filed on October 9th and then I will have ten days to do a response. I can ask for an extension if I need one, and I probably will. I'm doing my best to catch up but I am really behind with my cases right now due to my father's death in September and the fact that I had that horrible H1N1 flu that took me out of action for a couple of weeks. So, I will likely be asking for an extension of time to Reply to the State's argument in your case.

I'll send you their Return as soon as it's received. That way, you may be able to let me know if you have any particular response to their argument. You know that you can call me collect; right? I filled out a form for you to be able to call when I first wrote you.

Otherwise, I can only imagine how difficult it would be to be incarcerated for something you didn't do. And I know how frustrating it must be for you to know that you were falsely accused and then wrongly convicted. I really hope that I am able to help you through my petition. But, of course, there are no guarantees.

I don't know what to tell you about writing to 60 minutes, Channel 19, or a senator. I personally have never seen such measures help. However, they must be able to help someone, since they keep airing programs about people who they portray as having been falsely convicted. The Innocents Project is, of course, the most effective of the bunch. However, I think they focus on death penalty cases. I guess, right now, I would just advise you to hold on and let's see what happens with the South Carolina Supreme Court and my Petition.

Exhibit 35

You know I will do my best to blow their arguments out of the water when I get the State's response. I am dedicated to getting your conviction reversed. Please do not hesitate to contact me by phone or letter if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Celia Robinson', written in a cursive style.

M. Celia Robinson
Appellate Defender

MCR/fkb

Exhibit 35 (A)

April 23, 2013

James Michael Lucas #276323
Lee Correctional Institution
Florence – South #1231
990 Wisacky Hwy.
Bishopville, SC 29010

Dear Mr. Lucas,

I do recall your case and that you were represented at PCR by Tara Shurling. I remember thinking Tara did a good job and that we had a good argument on your behalf. If I remember correctly, there was something about a speaker and I thought there was at least an argument that you are actually innocent of the charge. Therefore, I am very sorry to hear that my Petition did not result in your conviction's being overturned.

I agree with you that your conviction and incarceration are unjust; however, I am very sorry to tell you that I cannot help you with your ongoing appeal efforts.

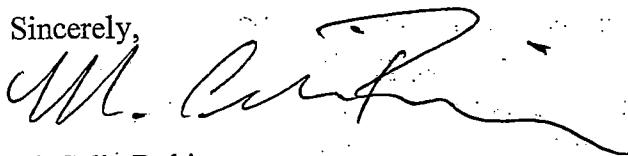
There are several reasons I am unable to assist, the first being that I no longer do criminal work; I now practice with a civil law firm focusing on workers' compensation claims. In addition, I no longer represent you. As you indicated in your letter, after I left Appellate Defense, you were assigned to a new attorney. If there were an attorney working on your case, it would be that attorney. However, I don't believe that the attorneys at Appellate Defense are likely to still be pursuing relief on your behalf because, in the end, the Supreme Court ruled against you.

I know that it is heartbreaking when the Supreme Court first grants a cert petition and then turns around and takes it back, saying that the petition was "improvidently granted." However, this isn't unusual. In other cases, I have had them say that they granted my petition and then later they indicated that they had granted the petition improvidently (mistakenly) so that the petition was denied in the end.

Again, I am very sorry that this happened in your case and that your conviction was not reversed. I don't know that much about Federal Habeas; therefore, I wouldn't be able to help you with that anyway. However, I would think you could rely to some extent on the arguments Tara Shurling made and the arguments I included in the Petition for Cert. You may be able to find resources in the prison library and, often, other inmates are able to give advice on appeal questions.

I am so sorry that I cannot help. I wish you only the best of luck with your continued efforts.

Sincerely,

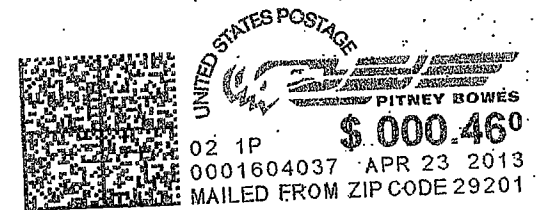


M. Celia Robinson

Exhibit 37

M. Celia Robinson
MULLIS LAW FIRM
P.O. BOX 7757
COLUMBIA, SOUTH CAROLINA 29202-7757

290101775 6002



RECEIVED

APR 26 2013

LEE CI MAIL ROOM

James Michael Lucas #276323
Lee Correctional Institution
Florence - South #1231
990 Wisacky Hwy.
Bishopville, SC 29010

Grand jury has become a 'sham'

Congratulations to our present Charleston County grand jury.

The grand jury in South Carolina has been turned into a sham to the shame of every citizen in our state. The system has been overloaded because of the vast number of crimes committed and the number of new criminal offenses in our Criminal Codes of Law.

Because of this tremendous increase in the overloading of law enforcement in this state over the past 25 years, a number of short cuts were made to speed up our justice system to satisfy law enforcement agencies, unfortunately to the detriment of the basic rights of our citizens.

Under our original grand jury system, the state was required to present the grand jury with necessary evidence, witnesses to the crime and, in many cases, the alleged victim involved in the crime to prove that a citizen of this state should be charged and tried for the alleged offense.

Now the grand jury relies, in most cases, on the sole hearsay testimony of a police officer appearing before the grand jury to bring in a true bill. This denies the grand jury the right to make a fair and just decision concerning the freedom of a fellow citizen.

From the viewpoint of law enforcement, this is effective and allows law enforcement officers to attend to more important duties such as conducting investigations, arresting criminals and appearing as witnesses in our justice system, which are their primary duties.

The second and more serious short cut in our criminal judicial system is the terrible misuse of our magistrate preliminary hearings. As in the grand jury system, only the officer in charge of presenting the arresting file appears before the magistrate at the preliminary hearing and offers the same hearsay evidence that he will offer when he appears before the grand jury.

The person standing before the magistrate has no right to call witnesses or make statements to the magistrate. The officer appearing before the magistrate is only required to present a prima facie case and is not required to offer other witnesses, nor is he required to allow the alleged defendant to admit or deny the charge or present witnesses on his behalf.

It is not unusual for innocent citizens to be arrested by local law enforcement personnel and to be placed in the city or county jails for days be-



cause of their inability to post unnecessary high cash bonds to ensure their court appearance. If they are released on bond, it is at a terrible expense to their family and friends.

Innocent citizens will then be bound over to the grand jury or General Session court without being allowed to question their accusers. Nor will the grand jury be allowed to question the victims or eye witnesses before issuing a true bill.

They are later tried before a jury of their peers and may be found not guilty of the charge. The officer, magistrate or grand jury are not liable because they were carrying out their "legal" duties and responsibilities.

Witnesses who have committed perjury are seldom prosecuted and, in most cases, the person pushing the prosecution is judgment-proof as to damages in a civil action.

ALTON L. OGIER
Former Magistrate
County of Charleston
23 Longitude Lane

O-o-oh, I'm sorry, that's *INCORRECT!* It's been fun playing *THE SYSTEM* with you, but I'm afraid we're going to have to say good-bye! What do we have for him, Johnny?

An *ALL-EXPENSE-PAID, FIFTEEN-YEAR* trip to the *STATE PENITENTIARY!*



DAVID COLLINS -DIRECT- BY MR. SWARAT

1 bullet that you test fired?

2 A That's what I did during the course of my
3 examination. That's how I was able to determine
4 that the markings left on this bullet were
5 consistent with the types of markings that were
6 left on the test bullets I fired from this gun
7 when I was using .270-caliber examination.

8 The characteristics, that is the way that
9 it marked, were very similar. Because, again,
10 you are using -- a term that we would use is a
11 subcaliber ammunition, a .270-caliber bullet
12 going down a .30-caliber barrel.

13 You have approximately 30,000ths of an inch
14 of difference going down the barrel. In other
15 words, the test bullets that I fired in this gun
16 were marked in a fashion similar to those
17 markings that I found on the evidence bullet.

18 Q They were similar in that you were firing a 270
19 through a larger caliber firearm?

20 A That is correct.

21 Q So they were consistent, one with the another?

22 A Consistent, but I couldn't determine if that
23 bullet was positively fired by this gun or not.

24 Q But it could have been?

25 A It could have been, yes, sir.

Exbit 39.

chael Lucas #276323

30

CKX HWY

g S.C. 29010

